REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED
31 MARCH 2006

(REVENUE RECEIPTS)

GOVERNMENT OF TAMIL NADU

7732R

GOVERNMENT OF TAMIL NADU

TRUTH ALONE TRIUMPHS

Raj Bhavan L...
11 MAY 2007
Chenn... 9

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

8013

FOR THE YEAR ENDED 31 MARCH 2006

(REVENUE RECEIPTS)

GOVERNMENT OF TAMIL NADU

8013

www.cag.gov.in

2-14—1

CONTENTS

Paragraph		Page
	Preface	v
	Overview	vii-x
	CHAPTER I **GENERAL**	
1.1	Trend of revenue receipts	1
1.2	Variations between budget estimates and actuals	4
1.3	Cost of collection	5
1.4	Collection of sales tax per assessee	5
1.5	Arrears of revenue	6
1.6	Arrears in assessment	7
1.7	Evasion of tax	8
1.8	Write off and waiver of revenue	8
1.9	Refunds	8
1.10	Results of audit	9
1.11	Failure of senior officials to enforce accountability and protect interest of Government	9
1.12	Departmental audit committee meeting	11
1.13	Response of the department/Government to draft audit paragraphs	11
1.14	Follow up on Audit Reports – summarised position.	11
1.15	Recovery of revenue of accepted cases	12

Paragraph		Page
	CHAPTER II **SALES TAX**	
2.1	Results of audit	13
2.2	Review: **Pendency of appeals at various levels and their impact on revenue collection**	14
2.3	Incorrect grant of exemption from levy of tax	23
2.4	Application of incorrect rate of tax	25
2.5	Erroneous treatment of contract of sale as works contract	27
2.6	Non/short levy of additional sales tax	28
2.7	Evasion of tax noticed through cross check of records	29
2.8	Non levy of tax	31
2.9	Non levy of interest for belated payment of tax	33
2.10	Non levy of penalty for excess collection of tax	33
2.11	Non levy of penalty under the CST Act	34
	CHAPTER III **STAMP DUTY AND REGISTRATION FEES**	
3.1	Results of audit	35
3.2	Review: **Receipts from stamp duty and registration fees**	36
3.3	Short levy due to undervaluation of property	46
3.4	Incorrect classification of an instrument of conveyance as certificate of sale.	47

Paragraph		Page
	CHAPTER IV **OTHER TAX RECEIPTS**	
4.1	Results of audit	49
	URBAN LAND TAX	
4.2	Omission to assess urban lands	50
	ELECTRICITY DUTY	
4.3	Non levy of electricity tax	50
	LAND REVENUE	
4.4	Non assignment of Government poramboke lands	51
	AGRICULTURAL INCOME TAX	
4.5	Omission to levy interest and penalty for non payment of (advance) tax	52

	CHAPTER V **NON TAX RECEIPTS**	
5.1	Results of Audit	53
	A- MINES AND MINERALS	
5.2	Non realisation of lease amount	54
	B - FINANCE DEPARTMENT	
5.3	Interest receipts	55

Paragraph		Page
C – HOME DEPARTMENT		
5.4	Review: **Police Receipts**	59
D - MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT		
5.5	Non issue of licences to public buildings resulting in non realisation of licence fees	69
E - ENVIRONMENT AND FOREST DEPARTMENT		
5.6	Non realisation of lease rent	70

PREFACE

This report for the year ended 31 March 2006 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, land revenue, stamp duty and registration fees, taxes on vehicles, state excise, agricultural income tax, urban land tax and non tax receipts.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2005-06 as well as those noticed in earlier years, but could not be included in previous years' reports.

OVERVIEW

The report contains 22 paragraphs including three reviews relating to non /short levy of taxes, interest, penalty, etc., involving Rs.228.71 crore. Some of the major findings are mentioned below:

I General

The revenue raised by the State during 2005-06 amounted to Rs.33,959.99 crore comprising Rs.23,326.03 crore as tax revenue and Rs.2,600.75 crore as non tax revenue. Rs.5,012.74 crore was received from Government of India as State's share of divisible Union taxes and Rs.3,020.47 crore as grants in aid. Sales tax (Rs.15,554.69 crore) formed a major portion (67 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits of Rs.819.91 crore accounted for 32 *per cent* of the non tax revenue.

(Paragraph 1.1)

At the end of 2005-06, arrears in respect of taxes administered by the departments of commercial taxes, revenue, industries, etc., amounted to Rs.11,132.07 crore of which sales tax and mines and minerals accounted for Rs.10,769.15 crore.

(Paragraph 1.5)

Test check of records of sales tax, state excise, land revenue, urban land tax, taxes on vehicles and other departmental offices conducted during the year 2005-06 revealed under assessments, short levy, loss of revenue, etc., amounting to Rs.1,211.90 crore in 2,416 cases.

(Paragraph 1.10)

As at the end of June 2006, 6,708 inspection reports issued upto December 2005 containing 22,549 audit observations with money value of Rs.2,556.70 crore were pending settlement with various departments.

(Paragraph 1.11)

II Sales Tax

A review on **Pendency of appeals at various levels and their impact on revenue collection** revealed the following

- At the end of March 2005, 5,972 appeal cases involving disputed revenue of Rs.2,477 crore and 14,221 cases involving disputed revenue of Rs.1,372 crore were pending before the Appellate Assistant Commissioners/Appellate Deputy Commissioners and Sales Tax Appellate Tribunals respectively.

  (Paragraph 2.2.6)

- In five divisions, 15 appeal cases involving Rs.6.62 crore though filed after the statutory time limit were incorrectly admitted.

  (Paragraph 2.2.7)

- Penalty of Rs.16.53 crore required to be collected before admitting appeals was not collected by 14 appellate authorities in 543 cases resulting in non realisation of Government revenue.

  (Paragraph 2.2.8)

- As on 31 March 2005, 1,392 appeals involving disputed revenue of Rs.73.09 crore were pending before 12 appellate authorities for more than three years.

  (Paragraph 2.2.9)

- Orders in 138 appeal cases finalised by eight appellate authorities were communicated after a period of 38 to 340 days resulting in delay in collection of Government revenue of Rs.40.57 crore.

  (Paragraph 2.2.11)

Application of incorrect rates of tax resulted in short levy of tax of Rs.1.46 crore.

(Paragraph 2.4)

In one assessment circle, in respect of 5 dealers, additional sales tax was either not levied or short levied to the extent of Rs.1.46 crore.

(Paragraph 2.6)

Cross verification of records of Central Excise Department and railways with that of Commercial Taxes Department revealed escapement of taxable turnover of Rs.93.11 crore involving tax and penalty of Rs.23.76 crore.

(Paragraph 2.7)

III Stamp Duty and Registration Fees

A review on **Receipts from stamp duty and registration fees** revealed the following

- Absence of provision for levy of stamp duty on power of attorney registered without consideration, resulted in foregoing of Government revenue of Rs.141.55 crore in 2,846 instruments.

(Paragraph 3.2.6)

- Unconditional exemption of stamp duty in case of transfer of property between holding and subsidiary companies resulted in foregoing of revenue of Rs.19.97 crore.

(Paragraph 3.2.7)

- Short levy of stamp duty due to misclassification of bonds of Rs.21.24 crore.

(Paragraph 3.2.9)

- Omission to collect stamp duty on issue of bonds through demat system resulted in foregoing of revenue of Rs.39.10 crore.

(Paragraph 3.2.10)

- Failure to prescribe the rate of stamp duty on value basis in respect of shares issued through demat system by companies resulted in non levy/collection of stamp duty.

(Paragraph 3.2.11)

- Absence of provision in the Indian Stamp Act for registration of apartments resulted in non realisation of revenue of Rs.11.84 crore.

(Paragraph 3.2.12)

Under valuation of a portion of a property conveyed, resulted in short levy of stamp duty and registration fee amounting to Rs.2.63 crore.

(Paragraph 3.3.1)

IV Other Tax Receipts

Electricity tax for electricity generated by captive generation plants was not levied in two cases resulting in non levy of tax of Rs.1.02 crore.

(Paragraph 4.3)

V Non Tax Receipts

Finance Department

Delay in finalisation of terms and conditions by Government for repayment of loan advanced to 10 co-operative sugar mills resulted in non levy of interest amounting to Rs.177.95 crore.

(Paragraph 5.3.3.1)

Interest for loans sanctioned to local bodies through TNUIFSL and HUDCO amounting to Rs.69.32 crore was not levied.

(Paragraph 5.3.4.1 and 5.3.4.2)

Home Department

A review on **Police Receipts** revealed the following

- Maximum amount of Rs.336 crore being the share of Chennai Corporation for the cost of police employed in Chennai city for the years 2000-01 to 2004-05 could not be demanded due to non fixation of rate.

  (Paragraph 5.4.7)

- Non realisation of police cost from Central Government for agency function and bandobust duty at Mandapam and Rameswaram coastal area amounted to Rs.6.38 crore.

  (Paragraph 5.4.9)

- Non recovery of water charges from police personnel over and above the free permissible limit amounted to Rs.0.89 crore.

  (Paragraph 5.4.10)

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by Government of Tamil Nadu during the year 2005-06, State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

		2001-02	2002-03	2003-04	2004-05	2005-06
I	Revenue raised by the State Government					
	• Tax Revenue	13,009.70	14,341.71	15,944.97	19,357.04	23,326.03
	• Non tax revenue•	1,556.73 (1,499.85)	1,860.62 (1,742.46)	2,093.79 (2,058.53)	2,208.35	2,600.75
	Total	**14,566.43 (14,509.55)**	**16,202.33 (16,084.17)**	**18,038.76 (18,003.50)**	**21,565.39**	**25,926.78**
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	2,870.07	3,047.57	3,544.20	4,236.39	#5,012.74
	• Grants in aid	1,381.54	1,586.84	2,122.75	2,649.75	3,020.47
	Total	**4,251.61**	**4,634.41**	**5,666.95**	**6,886.14**	**8,033.21**
III	**Total receipts of the State [(I) + (II)]**	18,818.04 (18,761.16)	20,836.74 (20,718.58)	23,705.71 (23,670.45)	28,451.53	33,959.99
IV	**Percentage of I to III**	77	77	76	76	76

• Figures in bracket represent non tax revenue including receipts from lotteries net of expenditure on prize winning tickets.

For details please see Statement No.11 – Detailed accounts of revenue by minor heads of Finance Accounts of the Government of Tamil Nadu for the year 2005-06. Figures under the Head '0021 – Taxes on income other than corporation tax – Share of net proceeds assigned to States' booked in the Finance Accounts under 'A – Tax revenue' have been excluded from revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

1.1.2 The details of tax revenue raised during the year 2005-06 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) or decrease (-) in 2005-06 over 2004-05
1	Sales tax	8,385.59	9,589.60	11,004.63	12,996.18	15,554.69	20
2	State excise	2,058.22	2,113.61	1,657.10	2,549.00	3,176.65	25
3	Stamp duty and registration fees	1,137.89	1,079.12	1,316.40	1,604.36	2,084.86	30
4	Taxes on vehicles	648.43	745.62	934.29	1,014.75	1,124.93	11
5	Land revenue	50.47	8.40	17.50	71.95	179.48	149
6	Taxes on agricultural income	2.02	1.63	1.25	0.59	0.13	(-) 78
7	Taxes on immovable property other than agricultural land (urban land tax)	14.11	12.69	12.03	11.81	11.86	---
8	Others	712.97	791.04	1,001.77	1,108.40	1,193.43	8
	Total	**13,009.70**	**14,341.71**	**15,944.97**	**19,357.04**	**23,326.03**	---

Sales tax: The increase was due to increase of 24.58 *per cent* under Central Sales Tax Act and 19.05 *per cent* under State Sales Tax Act.

State excise: The increase was mainly due to increase in receipts under malt liquor, foreign liquors and spirits.

Stamp duty and registration fees: The increase was mainly due to increase of 31 *per cent* under stamps-non judicial, 20 *per cent* under stamps-judicial and 25 *per cent* under registration fees.

Land revenue: The increase was mainly due to increased receipts from sale proceeds of waste lands and redemption of land tax.

Reasons for increase/shortfall, though called for from other departments, have not been received (November 2006).

1.1.3 The details of major non tax revenue realised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) or decrease (-) in 2005-06 over 2004-05
1	Interest receipts, dividends and profits	535.42	594.70	559.74	590.05	819.91	39
2	Crop husbandry	79.19	62.22	61.61	57.27	66.43	16
3	Forestry and wild life	97.04	157.44	90.21	155.07	138.59	(-) 11
4	Non-ferrous mining and metall-urgical industries	160.40	181.09	377.54	409.58	465.68	14
5	Education, sports, art and culture	65.79	89.50	122.58	143.43	209.98	46
6	Other receipts						
	• State lotteries	126.70	119.50	22.18	---	----	
	• Others	492.19	656.17	859.93	852.95	900.16	6
	Total	**1,556.73**	**1,860.62**	**2,093.79**	**2,208.35**	**2,600.75**	

Interest receipts: The increase was mainly due to increase of 108 *per cent* under interest from public sector and other undertakings, 105 *per cent* under interest realised on investment of cash balances and 131 *per cent* under other receipts.

Non ferrous mining and metallurgical industries: The increase was mainly due to increase of 21 *per cent* under mineral concession fees, rents and royalties.

Education, sports, art and culture: The increase was mainly due to increase of 52 *per cent* under general education and 23 *per cent* under technical education.

Reasons for increase/shortfall, though called for from other departments, have not been received (November 2006).

1.2 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2005-06 in respect of principal heads of tax and non tax revenue are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actuals	Variations excess (+) or short fall (-)	Percentage of variation
1	Sales tax	14,360.71	15,554.69	1,193.98	8
2	State excise	2,478.00	3,176.65	698.65	28
3	Stamp duty and registration fees	1,562.81	2,084.86	522.05	33
4	Taxes on vehicles	1,130.50	1,124.93	(-) 5.57	(-) 0.49
5	Land revenue	25.46	179.48	154.02	605
6	Taxes on immovable property other than agricultural land (urban land tax)	15.50	11.86	(-) 3.64	(-) 23
7	Taxes and duties on electricity	240.00	95.22	(-) 144.78	(-) 60
8	Interest receipts, dividends & profits	589.89	819.91	230.02	39
9	Non ferrous mining and metallurgical industries	427.49	465.68	38.19	9
10	Crop husbandry	62.07	66.43	4.36	7
11	Roads and bridges	30.50	36.11	5.61	18
12	Major and medium irrigation	19.43	14.90	(-) 4.53	(-) 23

Taxes and duties on electricity: The decrease (60 *per cent*) was due to decrease under taxes on consumption and sale of electricity.

Land revenue: The increase was mainly due to increased receipts from sale proceeds of waste lands and redemption of land tax.

Reasons for variations, though called for from other departments, have not been received (November 2006).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and percentage of such expenditure to gross collection, during the years 2003-04, 2004-05 and 2005-06 along with the relevant all India average percentage of expenditure on collection to gross collection for 2004-05 were as follows:

(Rupees in crore)

Sl. No.	Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2004-05
1	Sales tax	2003-04	11,004.63	93.70	0.85	
		2004-05	12,996.18	102.34	0.79	0.95
		2005-06	15,554.69	106.64	0.69	
2	Taxes on vehicles	2003-04	934.29	34.69	3.71	
		2004-05	1,014.75	48.56	4.79	2.74
		2005-06	1,124.93	49.50	4.40	
3	State excise	2003-04	1,657.10	19.84	1.20	
		2004-05	2,549.00	25.88	1.02	3.34
		2005-06	3,176.65	27.76	0.87	
4	Stamp duty and registration fees	2003-04	1,316.40	79.00	6.00	
		2004-05	1,604.36	84.02	5.24	3.44
		2005-06	2,084.86	86.83	4.16	

It would be seen from the above that the percentage of expenditure on collection of taxes on vehicles and stamp duty and registration fees was higher than the all India average.

1.4 Collection of sales tax per assessee

(Rupees in crore)

Year	No. of assessees	Sales tax revenue	Revenue/ assessee
2001-02	1,06,946	8,385.59	0.08
2002-03	1,45,489	9,589.60	0.07
2003-04	1,57,126	11,004.63	0.07
2004-05	1,83,707	12,996.18	0.07
2005-06	1,69,374	15,554.69	0.09

There was reduction in the number of assessees in 2005-06 as compared to 2004-05 and the revenue per assessee remained more or less at the same level over the years since 2001-02.

1.5 Arrears of revenue

The arrears of revenue as on 31 March 2006 in respect of some principal heads of revenue amounted to Rs.11,132.07 crore, of which Rs.3,330.60 crore were outstanding for more than five years as detailed in the following table:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than 5 years as on 31 March 2006	Remarks
1	2	3	4	5
1	Sales tax	10,507.52	3,075.19	Out of the total arrears of Rs.10,507.52 crore, demands amounting to Rs.3,898.78 crore were covered under Revenue Recovery Act. Demands amounting to Rs.1,850 crore were stayed by Government, High Court and other judicial authorities. Rs.276.91 crore was held up due to rectification/review applications. Rs.3,881.99 crore was pending under deferral/ BIFR* cases, etc. Rs.565.20 crore was likely to be written off/waived. Rs.34.64 crore has since been collected.
2	Mines and Minerals	261.63	112.28	Out of the total arrears of Rs.261.63 crore, demands amounting to Rs.30.51 crore were covered under Revenue Recovery Act, demands amounting to Rs.110.51 crore were stayed by High Court and other judicial authorities. A sum of Rs.3.13 crore was likely to be written off. Rs.117.22 crore was under various stages of collection, while Rs.0.26 crore has since been collected.
3	Stamp duty and registration fees	174.64	43.21	The entire arrears were covered by recovery certificates.
4	Urban land tax	107.26	39.39	Demands amounting to Rs.33.09 crore were stayed by Government, High Court and other judicial authorities. Rs.70.98 crore was under various stages of collection. Rs.3.19 crore has since been collected.

* Board for Industrial & Financial Reconstruction

1	2	3	4	5
5	State excise	41.16	41.16	Out of the total arrears of Rs.41.16 crore, demands amounting to Rs.11.66 crore were covered under Revenue Recovery Act, demands amounting to Rs.2.03 crore were stayed by Government, High Court and other judicial authorities. Rs.4.00 crore was held up as whereabouts of licensees was not known. Rs.0.33 crore was held up on account of persons becoming insolvent, Rs.2.02 crore was likely to be written off, Rs.4.75 crore was under various stages of collection. Rs.16.37 crore has since been collected.
6	Taxes on vehicles	2.33	1.00	Out of the total arrears of Rs.2.33 crore, demands amounting to Rs.1.78 crore were covered under Revenue Recovery Act. Demands amounting to Rs.0.31 crore were stayed by High Court and other judicial authorities. Rs.0.24 crore was under various stages of collection.
7	Land revenue	37.53	18.37	Out of the total arrears of Rs.37.53 crore, demands amounting to Rs.4.66 crore were stayed by High Court and other judicial authorities, Rs.2.39 crore was stayed by State Government. Rs.0.01 crore was likely to be written off, Rs.26.76 crore was under various stages of collection. Rs.3.71 crore has since been collected.
	Total	**11,132.07**	**3,330.60**	

1.6 Arrears in assessment

The number of cases pending assessment at the beginning of the year 2005-06, cases that are due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2005-06, as furnished by the Sales Tax Department in respect of sales tax and by Revenue Department in respect of urban land tax are as follows:

Heads of revenue	Opening balance	New cases due for assessment during 2005-06	Total cases due for assess-ments	Cases disposed of during 2005-06	Balance at the end of the year	Percen-tage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Sales tax	54,292	1,77,496	2,31,788	1,62,872	68,916	70
Urban land tax	5,937	3,812	9,749	2,101	7,648	22

1.7 Evasion of tax

The details of cases of evasion of tax detected, sales tax cases finalised and demands for additional tax raised as reported by the Sales Tax Department are given below:

(Rupees in crore)

Sl. No.	Head of revenue	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	Cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2006
					No.	Amount	
1	Sales tax						
	• Enforcement wing.	5,803	10,203	16,006	9,424	NF*	6,582
	• Administrative wing.	5,366	7,468	12,834	6,077	412.22	6,757

* Not furnished.

1.8 Write off and waiver of revenue

During the year 2005-06, Rs.0.04 crore (in 297 cases) relating to sales tax was written off by the department as irrecoverable. Reasons for the write off as reported by the department were as follows:

(Rupees in lakh)

Sl. No.	Reasons	No. of cases	Amount
1	Whereabouts of defaulters not known	31	0.57
2	Defaulters no longer alive	1	0.51
3	Defaulters not having any property	265	2.53
	Total	**297**	**3.61**

In addition to the above, sales tax amounting to Rs.0.42 crore in 12 cases, was waived during the year.

1.9 Refunds

The number of refund cases pending at the beginning of the year as on 1 April 2005, claims received during the year, refunds allowed during the year and cases pending at the close of the year (31 March 2006) as reported by the departments are given below:

(Rupees in crore)

Sl. No.	Particulars	Sales tax		Taxes on vehicles		Mines and minerals	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	71,426	134.02	67	0.06	6	0.04
2	Claims received during the year	30,339	85.25	358	0.65	21	66.44
3	Refunds made during the year	22,267	56.40	403	0.62	21	66.44
4	Balance outstanding at the end of the year	79,498	162.87	22	0.09	6	0.04

1.10 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts and non tax receipts conducted during 2005-06 revealed under assessment/short levy/loss of revenue amounting to Rs.1,211.90 crore in 2,416 cases. During the year, the departments accepted under assessment of Rs.4.97 crore in 975 cases pointed out in 2005-06 and earlier years and recovered Rs.2.70 crore.

This Report contains 22 paragraphs including three reviews relating to non/ short levy of taxes, duties, interest and penalties etc., involving Rs.228.71 crore. The departments/Government accepted audit observations involving Rs.4.08 crore, of which Rs.1.70 crore was recovered upto November 2006. Final reply has not been received in respect of the remaining cases (November 2006).

1.11 Failure of senior officials to enforce accountability and protect interest of Government

Audit observations on incorrect assessments, short levy of taxes, duties and fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. Serious financial irregularities are reported to the heads of departments concerned and Government. The heads of offices are required to furnish replies to the inspection reports through their respective heads of departments within a period of two months.

1.11.1 The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2005, which were pending settlement by the departments as on 30 June 2006, along with corresponding figures for the preceding two years, are given below:

	Position as on 30 June		
	2004	2005	2006
Number of inspection reports pending settlement	5,629	6,134	6,708
Number of outstanding audit observations	18,709	20,477	22,549
Amount of revenue involved (Rs.in crore)	2,139.19	2,399.64	2,556.70

Increase in the outstanding audit reports and objections is indicative of non compliance with Government's instruction to send replies to initial audit observations and report on further action taken thereon within the stipulated time. Though State audit committee and departmental audit committee were constituted in March 1993 with the objective of expeditious settlement of outstanding paras, the number of outstanding reports and observations were on the increase.

1.11.2 Revenue headwise breakup of the inspection reports and audit observations outstanding as on 30 June 2006 is given below:

Sl. No.	Revenue heads	Number of outstanding		Amount (in crore of Rs)	Earliest year to which the inspection report relates
		Inspection reports	Audit obser-vations		
1	2	3	4	5	6
1	Sales tax	3,079	14,768	758.58	1987-88
2	Stamp duty and registration fees	990	1,969	67.38	1984-85
3	Land revenue	750	1,833	1,059.94	1988-89
4	Taxes on vehicles	422	1,009	83.39	1983-84
5	State excise	295	601	129.87	1987-88
6	Taxes on agricultural income	80	213	81.43	1986-87
7	Mines and minerals	258	702	299.85	1989-90
8	Urban land tax	241	644	31.81	1983-84
9	Electricity duty	66	122	30.57	1986-87
10	Entertainment tax	114	123	9.13	1992-93
11	Luxury tax	179	194	1.44	1997-98
12	Betting tax	12	23	0.09	1991-92
13	Entry tax	222	348	3.22	2003-04
	Total	**6,708**	**22,549**	**2,556.70**	

1.12 Departmental audit committee meeting

During the course of the year 2005-06, three meetings were held in respect of Commercial Taxes Department (Sales Tax) and Home-Transport (Taxes on Vehicles). Ninety seven paras with a value of Rs.58.52 lakh were settled during these meetings. In respect of other departments, no departmental audit committee meeting was held during the year 2005-06.

1.13 Response of the department/Government to draft audit paragraphs

Government (Finance Department) issued directions (April 1952) to all departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs are forwarded to the secretaries of the concerned departments through demi official letters, drawing their attention to the audit findings and requesting them to send their response within six weeks from the date of receipt of the draft paragraphs. The fact of non receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Fifty four draft paragraphs (finally clubbed into 22 paragraphs including three reviews) proposed to be included in this Report were forwarded to the secretaries of the respective departments during the period from April to June 2006, through demi official letters followed up with reminders in August 2006.

The secretaries of the departments did not send replies to 31 draft paragraphs including one review. These paragraphs have been included in this report without the response of the secretaries of the departments.

1.14 Follow up on Audit Reports – summarised position

With a view to ensure accountability of the executive in respect of all the issues dealt with in Audit Reports, the Public Accounts Committee (PAC) directed that the concerned departments should furnish remedial/corrective action taken notes (ATN) on all paragraphs contained therein, within the prescribed time frame.

A review of outstanding ATNs as of 31 March 2006 on paragraphs included in the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu, disclosed that the departments had not submitted ATNs on 972 recommendations pertaining to 280 audit paragraphs. Out of the 972 recommendations pending, ATNs have not been received even once in respect of 620 recommendations; the earliest of which relate to the Report of 1986-87.

Further, PAC has also laid down that necessary explanatory notes for the issues mentioned in the Audit Reports should be furnished to the committee within a maximum period of two months from the date of placing the Reports before legislature. Though the Audit Reports for the years from 1998-99 to 2003-04 were placed before the Legislative Assembly between May 2000 and September 2005, the departments are yet to submit explanatory notes for 81 paragraphs (including nine reviews) included in these reports.

1.15 Recovery of revenue of accepted cases

During the years between 2000-01 and 2004-05, the department/Government accepted audit observations involving Rs.121.57 crore of which only an amount of Rs.11.25 crore was recovered till 31 August 2006 as detailed below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2000-01	668.90	27.29	5.72
2001-02	512.60	9.78	2.23
2002-03	1,032.59	53.47	1.13
2003-04	815.05	25.92	0.44
2004-05	576.20	5.11	1.73
Total	**3,605.34**	**121.57**	**11.25**

CHAPTER II

SALES TAX

2.1 Results of audit

Test check of records of departmental offices conducted during the period from April 2005 to March 2006 revealed under assessments, non levy of penalty etc., amounting to Rs.118.01 crore in 1,409 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1	Incorrect exemption from levy of tax	256	20.33
2	Application of incorrect rate of tax	381	19.34
3	Incorrect computation of taxable turnover	215	19.26
4	Non levy of penalty/interest	352	5.35
5	Escapement of taxable turnover	24	37.73
6	Others	180	15.71
7	Review on **Pendency of appeals at various levels and their impact on revenue collection**.	1	0.29
	Total	**1,409**	**118.01**

During the course of the year 2005-06, the department accepted under assessments, etc. amounting to Rs.2.91 crore in 656 cases, out of which, Rs.1.88 crore involving 521 cases were pointed out during the year and the rest in earlier years. Of these, the department recovered Rs.1.44 crore.

After issue of draft paragraphs the department recovered Rs.8.48 lakh in one case pertaining to 2005-06.

A review on **pendency of appeals at various levels and their impact on revenue collection** and a few illustrative cases involving Rs.28.49 crore are discussed below:

2.2 Review on pendency of appeals at various levels and their impact on revenue collection

Highlights

- **At the end of March 2005, 5,972 appeal cases involving disputed revenue of Rs.2,477 crore and 14,221 cases involving disputed revenue of Rs.1,372 crore were pending before the Appellate Assistant Commissioners/Appellate Deputy Commissioners and Sales Tax Appellate Tribunals respectively.**

(Paragraph 2.2.6)

- **In five divisions, 15 appeal cases involving Rs.6.62 crore though filed after the statutory time limit, were incorrectly admitted.**

(Paragraph 2.2.7)

- **Penalty of Rs.16.53 crore required to be collected before admitting appeals was not collected by 14 appellate authorities in 543 cases resulting in non realisation of Government revenue.**

(Paragraph 2.2.8)

- **As on 31 March 2005, 1,392 appeals involving disputed revenue of Rs.73.09 crore were pending before 12 appellate authorities for more than three years.**

(Paragraph 2.2.9)

- **Orders in 138 appeal cases finalised by eight appellate authorities were communicated after a period of 38 to 340 days resulting in delay in collection of Government revenue of Rs.40.57 crore.**

(Paragraph 2.2.11)

Recommendations

Government may consider taking the following steps to improve the effectiveness of the system.

- fix administrative norms for timely disposal/finalisation of appeal/ remanded cases, and
- ensure strengthening of the internal control system to monitor passing and communication of appeal orders by appellate authorities and proper maintenance of the prescribed registers.

Introduction

2.2.1 The Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) and the rules made thereunder provide an assessee the statutory remedy to file an appeal, if he is aggrieved by any order passed by an assessing authority. The first appellate authority in respect of order passed by Assistant Commercial Tax Officers, Deputy Commercial Tax Officers or Commercial Tax Officers is the Appellate Assistant Commissioner (AAC). The first appeal lies with the Appellate Deputy Commissioner (ADC) in respect of order passed by the Assistant Commissioner (Commercial Taxes). The second and higher appeals in all cases rest with the Sales Tax Appellate Tribunal (STAT), High Court and the Supreme Court.

TNGST Act provides that an appeal to the AAC/ADC should be filed by an assessee within a period of 30 days from the date on which the order of assessment was served on him. The AAC/ADC may, however, admit an appeal filed within a further period of 30 days after the expiry of the initial period of 30 days. The Act also provides for payment of prescribed percentage of disputed tax and penalty before filing of appeal.

The Act further provides that AAC/ADC may, while disposing of an appeal, set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed. The TNGST Act and the rules made thereunder do not specify any time limit for disposal of appeals and for passing orders in respect of remanded cases.

Organisational set up

2.2.2 The appellate wing of the department is distinct from the assessment and administrative wings. The State has 20 AACs, two ADCs and four benches of the STAT each headed by a Chairman, who is a judicial officer not below the rank of district judge and two other members also appointed by Government possessing such qualifications as prescribed by Government. The AACs., ADCs. and Tribunals are under the administrative control of the Chairman, STAT and the overall supervisory control is exercised by the Registrar General, High Court, Chennai.

Audit Objectives

2.2.3 This review was conducted with a view to:

- analyse the pendency of appeals at various levels and their impact on revenue collection,
- ascertain the adequacy of the system available to ensure timely disposal of appeal/remanded cases and
- ascertain the effectiveness of the internal control mechanism.

Scope of Audit

2.2.4 During the review conducted from July 2005 to March 2006, data from 14[1] out of 22 first appellate authorities and four benches of tribunal was collected. The review also covered six out of nine divisions and 109 out of 323 assessment circles. Appeal orders passed and remanded cases finalised during the years 2000-01 to 2004-05 were taken up for detailed scrutiny.

Revenue involved in appellate fora

2.2.5 The position of revenue blocked by appeal cases as furnished by the Chairman, STAT was Rs.3,848.48 crore as on 31.3.2005. The year wise position was as under:

(Rupees in crore)

Year ending	AAC		ADC		STAT		Total	
	No. of cases	Amount	No.of cases	Amount	No.of cases	Amount	No.of cases	Amount
2000-01 as on 31.3.2001	13,804	2,127.15	326	481.70	11,456	1,264.30	25,586	3,873.15
2001-02 as on 31.3.2002	8,758	1,312.39	235	483.27	12,553	1,099.82	21,546	2,895.48
2002-03 as on 31.3.2003	7,029	954.66	230	429.61	13,974	1,325.05	21,233	2,709.32
2003-04 as on 31.3.2004	6,069	529.69	196	440.36	14,041	1,252.82	20,306	2,222.87
2004-05 as on 31.3.2005	5,850	2,053.69	122	422.81	14,221	1,371.98	20,193	3,848.48

[1] AAC-III, Chennai, AAC-IV, Chennai, AAC-VI, Chennai, AAC Coimbatore (Addl.), Coimbatore (Main), Kancheepuram, Madurai (North), Madurai (South), Pollachi, Tirunelveli, Trichy, Virudhunagar, ADC Chennai and Coimbatore.

The details regarding revenue blocked in appeals were not furnished by the department, with the result, the departmental figures could not be cross checked with the figures furnished by the Chairman, STAT.

Disposal of appeals

2.2.6 No norms for disposal of appeals by AAC/ADC have been prescribed. The details furnished by the Chairman, STAT show that the number of cases pending for disposal before AACs/ADCs during the last five years ranged between 40 and 51 *per cent* and that of tribunals between 74 and 89 *per cent*. The disposal of appeals for the years 2000-01 to 2004-05 is detailed below:

Disposal of appeals by AACs/ADCs

(Rupees in crore)

Year	Out-standing as on 1April No. of cases/ Amount	Additions during the year No. of cases/ Amount	Total No. of cases/ Amount	Clearance during the year No. of cases/ Amount	Out standing as on 31March No. of cases/ Amount	Percentage of pendency
2000-01	15,431 2,539.20	12,055 2,082.55	27,486 4,621.75	13,356 2,012.90	14,130 2,608.85	51
2001-02	14,130 2,608.85	8,433 1,242.97	22,563 3,851.82	13,570 2,056.16	8,993 1,795.66	40
2002-03	8,993 1,795.66	7,068 662.80	16,061 2,458.22	8,802 1,074.19	7,259 1,384.27	45
2003-04	7,259 1,384.27	6,086 374.92	13,345 1,759.19	7,080 789.14	6,265 970.05	47
2004-05	6,265 970.05	6,574 2,122.66	12,839 3,092.71	6,867 616.21	5,972 2,476.50	47

Disposal of appeals by the tribunals

(Rupees in crore)

Year	Out standing as on 1April No. of cases/ Amount	Additions during the year No. of cases/ Amount	Total No. of cases/ Amount	Clearance during the year No. of cases/ Amount	Out standing as on 31March No. of cases/ Amount	Percen-tage of pendency
2000-01	8,355 952.99	6,430 500.32	14,785 1,453.31	3,329 189.01	11,456 1,264.30	77
2001-02	11,456 1,264.30	5,493 286.98	16,949 1,551.28	4,396 451.46	12,553 1,099.82	74
2002-03	12,553 1,099.82	4,695 497.49	17,248 1,597.31	3,274 272.27	13,974 1,325.04	81
2003-04	13,974 1,325.04	3,135 242.38	17,109 1,567.42	3,068 314.60	14,041 1,252.82	82
2004-05	14,041 1,252.82	1,985 226.83	16,026 1,479.65	1,805 107.67	14,221 1,371.98	89

The pendency of appeal before the tribunals registered a 70 *per cent* increase during the five year period. The amount involved in the disputed cases pending before the tribunals increased from Rs.952.99 crore in April 2000 to Rs.1,371.98 crore in March 2005.

Admittance of appeals filed after the statutory time limit

2.2.7 The TNGST Act provides that appeal should be filed by the appellant within 30 days from the expiry of the date on which the order was served on him. The Act further provides that the AAC/ADC may, within a further period of 30 days admit an appeal, if he is satisfied that the appellant had sufficient cause for not preferring the appeal within the stipulated period of 30 days.

Test check of records in five[2] divisions revealed that 15 appeal cases filed after the statutory period of 60 days were admitted. The revenue involved in these cases amounts to Rs.6.62 crore. A few illustrative cases are given below:

(Rupees in lakh)

Sl.No.	Appeal number	Assessment circle	Date of service of order	Date of filing of appeal	Delay (No. in days)	Revenue involved
1	18/2004	Perur	11.10.03	01.07.04	262	7.60
2	60/2002	West Tower	26.12.00	21.09.01	268	18.85
3	11/2002	Udumalpet	21.08.98	10.12.01	1,217	366.43

Admittance of the appeals filed after the statutory time limit was incorrect, which hindered early realisation of revenue.

Government to whom the matter was reported in May 2006, stated in August 2006 that the audit observations would be conveyed to Chairman, STAT for further necessary action.

Non payment of the prescribed amount of the disputed penalty

2.2.8 According to Section 25 of the TNGST Act, any penalty payable under the Act shall be deemed to be tax under the Act, for the purpose of collection and recovery. Section 31 of the TNGST Act provides that no appeal shall be entertained unless it is accompanied by satisfactory proof of payment of tax admitted by the assessee and prescribed percentage[3] of the difference of tax assessed by the assessing authority and the tax admitted by the appellant.

---

2 Chennai (South), Coimbatore, Madurai, Tirunelveli and Trichy.

3 25 *per cent* from 10 June 1999, 12.5 *per cent* from 26 July 2000 and 25 *per cent* from 3 June 2002.

A scrutiny of records, however, revealed that though the assessing authorities levied penalty of Rs.72.79 crore in 543 cases, the appeals filed by the assessees were admitted without payment of the prescribed percentage of penalty amounting to Rs.16.53 crore as detailed below:

(Rupees in crore)

Sl. No.	Name of the appellate authority	No. of cases	.25%/12.5% of the disputed amount of penalty recoverable
1	AAC-III, Chennai	51	7.82
2	AAC, Madurai(North)	47	0.89
3	AAC, Madurai(South)	54	1.16
4	AAC, Coimbatore(Main)	15	0.17
5	AAC, Pollachi	41	0.46
6	AAC, Virudhunagar	89	0.95
7	AAC-IV, Chennai	29	0.55
8	AAC-VI, Chennai	29	0.76
9	AAC, Kancheepuram	32	1.23
10	AAC, Coimbatore(Addl.)	28	0.64
11	AAC, Trichy	57	0.39
12	AAC, Tirunelveli	60	1.14
13	ADC, Chennai	10	0.32
14	ADC, Coimbatore	1	0.05
	Total	**543**	**16.53**

After this was brought to the notice of the department in March 2006, the territorial Deputy Commissioners of Tirunelveli, Chennai (East), Chennai (Central) and the AAC Coimbatore replied that 'tax' as defined in TNGST Act does not include penalty. The reply was not tenable in view of the specific provision contained in Section 25 of the Act.

Government to whom the matter was reported in May 2006, stated in August 2006 that the audit observations would be conveyed to the Chairman, STAT for further necessary action.

Non fixation of time limit for disposal of appeals

2.2.9 The TNGST Act and the Rules made thereunder do not prescribe any time limit for disposal of appeals. The Tamil Nadu Commercial Taxes Manual (TNCT Manual) contemplates that the departmental representative should move the Appellate Deputy/Assistant Commissioner for quick disposal of long pending cases.

The details furnished by the Chairman, STAT indicate that 1,392 appeals involving disputed revenue of Rs.73.09 crore were pending before 12 appellate authorities covered in the review for more than three years as on 31 March 2005. The age wise analysis is given below:

(Rupees in crore)

Sl.No.	Period of pendency	No. of cases	Amount involved
1	More than 10 years	56	0.67
2	More than 5 years but less than 10 years	396	23.13
3	More than 3 years but less than 5 years	940	49.29
4	Less than 3 years	2,730	1,896.27
	Total	**4,122**	**1,969.36**

The details furnished by ADC, Chennai revealed that 17 appeal cases involving revenue of Rs.34.96 crore were transferred to ADC, Coimbatore from Chennai in 2001 but were returned undisposed in 2005. The last hearing in all these appeals was held in May 2002 by ADC, Coimbatore. The appeals were finalised by ADC, Chennai between August 2005 and December 2005. Undue delay of more than five years was brought to the notice of department in March 2006.

Government to whom the matter was reported in May 2006, stated in August 2006 that the audit observations would be conveyed to the Chairman, STAT for further necessary action.

Delay in writing up of appeal orders

2.2.10 As per TNCT Manual (Volume I) , an appeal order should normally be written up within 10 days from the date of last hearing of the appeal or of making an enquiry, if any, connected with it. Where a longer time is taken because of any special circumstances, the reasons thereof should be clearly spelt out in the records.

Audit scrutiny revealed that 25 appeal cases involving disputed revenue of Rs.60.99 crore were remanded by AAC-VI, Chennai and AAC, Coimbatore (Main). The orders remanding back the assessment were, however, written up belatedly and the delay ranged between 22 days to 382 days. This resulted in blocking up of revenue and delayed collection of revenue due to Government.

Government to whom the matter was reported in May 2006, stated in August 2006 that the audit observations would be conveyed to the Chairman, STAT for further necessary action.

Communication of appeal orders

2.2.11 After an appeal is decided, the decision is communicated to the assessing officer to enable him to take action as per the orders. No time limit for communication of orders has been laid down in the Act /Rules.

It was noticed that in respect of 138 appeal cases relating to eight appellate authorities, the orders were communicated after a period of 38 to 340 days. This resulted in delay in collection of Government revenue of Rs.40.57 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the appellate authority	No. of cases	Delay (in days)		Revenue involved
			From	To	
1	AAC-III, Chennai	22	82	153	8.56
2	AAC, Kancheepuram	10	73	120	4.01
3	AAC,Coimbatore(Main)	38	77	340	4.51
4	AAC, Pollachi	19	62	190	2.79
5	AAC, Trichy	7	84	173	0.11
6	AAC, Madurai (S)	12	55	117	4.19
7	AAC, Madurai (N)	21	38	70	1.96
8	ADC, Chennai	9	82	142	14.44
	Total	**138**			**40.57**

Government to whom the matter was reported in May 2006, stated in August 2006 that the audit observations would be conveyed to the Chairman, STAT for further necessary action.

Non/delay in finalisation of remanded cases

2.2.12 The TNGST Act and Rules made thereunder do not specify any time limit for passing orders in respect of remanded cases.

Audit scrutiny revealed that in 76 assessment circles relating to six divisions, 741 remanded cases involving revenue of Rs.375.22 crore were not finalised as on 31 March 2005, resulting in blocking up of Government revenue. The delay ranged from five months to five years.

(Rupees in crore)

Sl. No.	Division	No.of circles	No. of cases	Revenue involved
1	DC, Chennai (South)	19	79	19.06
2	DC, Chennai (Central)	9	77	130.28
3	DC, Chennai (East)	8	71	71.77
4	DC, Coimbatore	22	359	69.49
5	DC, Madurai	10	49	52.21
6	DC, Tirunelveli	8	106	32.41
	Total	**76**	**741**	**375.22**

Audit scrutiny revealed that AAC, Madurai, while remanding the assessment in three cases in February 2003 issued directions to pass orders within 60 days. These assessments involving revenue of Rs.42.47 lakh were yet to be finalised. In one case, though the AAC directed the assessing authority to finalise the case within eight weeks, order involving tax of Rs.15.08 lakh was passed after a delay of 130 weeks.

Government to whom the matter was reported in May 2006, stated in August 2006 that the Act does not prescribe any time limit and finalisation of remanded cases is being monitored by the Assistant Commissioners, Deputy Commissioners and Commissioner of Commercial Taxes during review meetings. However, delay in finalisation which ranges from five months to five years indicates that this requires effective monitoring and concerted efforts

Incorrect finalisation of remanded cases

2.2.13 It was noticed in review that in four cases, which were remanded by the appellate authorities, assessments were finalised incorrectly, resulting in short/non levy of tax of Rs.28.62 lakh (inclusive of penalty) as detailed below:

(Rupees in lakh)

Sl. No	Assessment circle	Assessment year/ Month of assessment	Amount	Remarks
1	P.N. Palayam	1993-94 (July 2003)	3.06	Electronic emergency lamps were assessed to tax at three *per cent*, instead of 12 *per cent* as provided in the Act.
2	Udumalpet (South)	1996-97 (October 2000)	20.92	The AAC upheld levy of tax made under the TNGST Act, disallowing the claim of exemption as sale to local exporters. However, the assessment already made under TNGST Act was subsequently revised allowing the exemption which was incorrect.
3	Bodinayakanur	1996-97 (January 2002)	2.38	Exemption was allowed without verification of proper documentary evidence in proof of stock transfer. After this was pointed out in August 2005, the department stated that assessment would be revised.
4	Bodinayakanur	1997-98 (January 2002)	2.26	Exemption was allowed without proper documentary evidence in proof of export sales. After this was pointed out, the department stated that assessment would be revised.
Total			**28.62**	

Defective maintenance of registers

2.2.14 In order to have an effective control over the appeal cases sent to appellate fora and for followup action, the assessment circles have to maintain appeal registers and registers of remanded cases.

In the course of the review, it was noticed that in 21 assessment circles, the above mentioned registers were not updated, disposals not noted, were not closed periodically and the remanded cases were not entered in the registers. Due to improper maintenance of registers, the total number of appeals filed during the period from 2000-01 to 2004-05 in each assessment circle and their

disposal could not be ascertained. This indicated that internal control system of the department was lacking.

Government to whom the matter was reported in May 2006, replied in August 2006 that suitable circular instructions had been given to the deputy commissioners in July 2006.

Acknowledgement

2.2.15 The review was discussed with the Government/department in the Audit Review Committee meeting held in July 2006. The views of Government/department have been incorporated in the respective paragraphs.

Conclusion

2.2.16 The review revealed that Government has not periodically addressed the issue of pendency of appeals in appellate fora and consequential blocking up of Government revenue. The delay in finalisation of remanded cases was also not looked into and norms and time limit fixed. The internal control system for pursuing pending appeals and for early finalisation of remanded cases was inadequate.

2.3 Incorrect grant of exemption from levy of tax

2.3.1 Under Section 3(2) of the TNGST Act, in case of goods mentioned in the first schedule, tax under this Act shall be payable by a dealer, at the rate and only at the point specified therein on the turnover in each year relating to such goods, whatever be the quantum of turnover in that year. It has been judicially held[4] by the Supreme Court that dealers who supply wood for manufacture of pulp are not eligible for exemption, though goods sold may be described as firewood. By notification issued in April 1998, exemption has been granted on sale of raw materials, packing materials and consumables to 100 *per cent* export oriented units (EOU) registered in the State.

Test check of records in six[5] assessment circles revealed that exemption was incorrectly granted between June 2001 and January 2005 to seven dealers on a turnover of Rs.3.80 crore during the years 1996-97, 1999-2000 and 2001-02 to 2003-04. The tax exemption allowed incorrectly in these cases amounted to Rs.34.85 lakh.

A few illustrative cases are mentioned below:

---

4 Tvl. A. Subramaniyam Vs. State of Tamil Nadu – 130 STC P.41(SC)

5 Avinashi Road (Coimbatore), Nungambakkam, Palani-I, Ramnagar, Tirunelveli (Junction) and Tiruvanmiyur.

(Rupees in lakh)

Sl. No.	Assessment circle (No. of dealers)	Year of transactions/ (Month/Year of assessment)	Commodity	Tax-able turn-over	Tax leviable
1	2	3	4	5	6
1	Nungambakkam Tiruvanmiyur (Three)	2001-02 to 2003-04 (between June 2004 and January 2005)	Industrial sewing machines and spares, machinery and electrical panel boards.	144.52	17.54
After this was pointed out, the department revised the assessments in July/December 2005 and raised additional demand of Rs.17.54 lakh; out of which an amount of Rs.3.18 lakh has been collected. Appeal filed against revision of assessment is stated to be pending in one case. Report on recovery of the balance amount is awaited (November 2006).					
2	Tirunelveli (Junction) (One)	1999-2000 (June 2001)	Sale of firewood to a paper mill.	82.80	6.62
After this was pointed out, department revised the assessment in September 2005 and raised an additional demand of Rs.6.62 lakh; the collection particulars of which are awaited (November 2006).					
3	Ramnagar (Coimbatore) (One)	2002-03 2003-04 (August/ December 2004)	Agro shading mesh[6] (a commodity classifiable as article of plastic under the Central Excise Tariff Act)	53.41	6.71
After this was pointed out, the department revised the assessments in December 2005 and raised an additional demand of Rs.6.71 lakh; of which a sum of Rs.2.24 lakh was collected by way of adjustment. Particulars of recovery of the balance amount are awaited (November 2006).					

After this was pointed out, the department revised the assessment in six cases and raised additional demand of Rs.33.54 lakh; out of which an amount of Rs.5.42 lakh was collected. Report on recovery of the balance amount and final reply in respect of other case is awaited (November 2006).

The matter was reported to Government between November 2005 and May 2006. Government accepted the audit observations in six cases. Reply of Government in respect of remaining case is awaited (November 2006).

2.3.2 According to Section 8(2-A) of the Central Sales Tax Act, 1956 (CST Act), inter State sale of goods is exempted from levy of tax, if the same is generally exempted under the local Act. If the goods under the local Act are exempted only in specified circumstances or under specified conditions, inter State sale of such goods is not eligible for exemption. As per entry 6(viii) of the second schedule to the TNGST Act, copra coconut is taxable at the rate of four *per cent* at the point of last purchase in the State by a dealer for crushing oil. Under entry 17 of Part B of the third schedule to the Act, coconut, copra other than those falling under the second schedule are exempted.

[6] Agro shading mesh is made of 100% high density polyethylene and is used for providing shade from harsh rays of sunlight. It controls temperature, reduces evaporation and keeps out birds and insects.

In Omalur assessment circle, while finalising the assessment of nine dealers for the year 2003-04 in February/March 2005, turnover of Rs.2.05 crore representing inter State sale of coconut, conditionally exempted under the local Act was erroneously exempted from levy of tax under CST Act. Incorrect allowance of exemption resulted in non levy of tax of Rs.16.37 lakh.

After this was pointed out in June 2005, the assessing authority(AA) replied that the exemption allowed on inter State sale was in order as watery coconut is generally exempted from tax under the local Act. The reply is not tenable as watery coconut is coconut and coconut is only conditionally exempted under the local Act.

The matter was reported to Government in November 2005; reply is awaited (November 2006).

2.4 Application of incorrect rate of tax

2.4.1 Under the provisions of the TNGST Act, tax is leviable on the sale or purchase of goods, as the case may be, at the rates and at the points mentioned in the relevant schedules to the Act.

In 15[7] assessment circles, while finalising the assessments between January 2000 and March 2005, tax was levied short due to application of incorrect rates of tax on a turnover of Rs.20.21 crore involving 19 dealers during the years 1995-96, 1997-98 and 2000-01 to 2003-04. The short levy of tax worked out to Rs.1.35 crore.

A few illustrative cases are mentioned below:

(Rupees in lakh)

Sl. No	Assessment circle (No. of dealers)	Year of transaction (Month/ Year of assessment)	Commodity	Taxable turn over	Rate of tax (*per cent*)		Amount short levied
					Applicable	Applied	
1	2	3	4	5	6	7	8
1	T.Nagar (South) (One)	2003-04 (December 2004)	Sweets and savouries sold under a brand name.	454.99	16	2	66.88
Under the TNGST Act, sale of branded sweets and savouries is taxable at the rate of 16 *per cent*. It was, however, taxed at two *per cent*. After this was pointed out in December 2005, the department replied that the goods were not covered by any registered trade mark and that the dealer was selling the goods in retail in small quantities and the packing materials were provided only to enable the customers to take the sweets in packed condition. The reply is not tenable as the goods were sold under brand name "Archana Sweets" and should be taxed at the rate of 16 *per cent*.							

[7] Annathanapatty, Chengalpattu, Fast Track Assessment Circle-II(Chennai), Harur, Luz, Mandaveli, Nungambakkam, Rattan Bazaar, Royapettah-I, Saibaba colony, Shevapet (North), Singarathoppu, Tiruppur (South), Tiruvanmiyur and T.Nagar (South).

1	2	3	4	5	6	7	8
2	Harur Annatha-napatty (Two)	1997-98 (January 2000) 2000-01 (November 2003)	Polyester yarn	481.90	8	2 4	19.72
After this was pointed out, the department in the case pertaining to Harur, revised the assessment in January 2004 and raised additional demand of Rs.1.33 lakh; the collection particulars of which are awaited (November 2006).							
3	Luz, Chennai (One)	2003-04 (October 2004)	'DOMEX' Home care liquid cleaner	276.53	16	12	11.61
The department revised the assessment in May 2006 and raised an additional demand of Rs.11.61 lakh; the collection particulars of which are awaited (November 2006).							
4	Nungam-bakkam (One)	2002-03 (March 2005)	Body shampoo kits	259.53	20	16	10.90
5	Rattan Bazaar (One)	2002-03 (April 2004)	Printed materials	130.01	10	3	9.56
The department revised the assessment in November 2005 and raised an additional demand of Rs.9.56 lakh; the collection particulars of which are awaited (November 2006).							

After this was pointed out, the department revised the assessment in 10 cases between January 2004 and May 2006 and raised an additional demand of Rs.43.09 lakh; out of which an amount of Rs.5.90 lakh has been collected. The department did not accept audit observations in six cases and suitable rejoinders were given to the department. Final reply of the department in respect of these cases is awaited (November 2006).

The matter was reported to Government between November 2005 and April 2006. Government accepted audit observations in nine cases; reply in respect of other cases is awaited (November 2006).

2.4.2 Under the CST Act, inter State sale of goods to registered dealers and Government departments is assessable to tax at the rate of four *per cent* on production of prescribed declarations. If inter State sale of goods is not covered by valid declarations in form 'C' or certificate in form 'D', tax is leviable at the rate of 10 *per cent* or at the rate applicable to sale of such goods inside the State, whichever is higher.

In three[8] assessment circles, it was noticed that inter State sale of bearings, gear boxes, coir machinery and vegetable oils valued at Rs.2.78 crore made by four dealers between 1998-99 and 2002-03 were not supported by prescribed declarations/certificates. However while finalising the assessments between October 2002 and March 2005, AAs incorrectly applied concessional rate of tax instead of the rate specified. Thus, application of incorrect rate of tax resulted in short levy of tax of Rs.11.06 lakh.

---

8 Fast Track Assessment Circle-I, Coimbatore, Ganapathy and Velachery.

After this was pointed, department revised the assessment in three cases and raised an additional demand of Rs.5.99 lakh; out of which an amount of Rs.3.89 lakh has been collected. Report on recovery of balance amount and reply in respect of the other case is awaited (November 2006).

The matter was reported to Government between November 2005 and January 2006. Government accepted the audit observation in two cases; reply in respect of other cases is awaited (November 2006).

2.5 Erroneous treatment of contract of sale as works contract

'Sale' means every transfer of property in goods by one person to another in the course of trade or business, for cash, deferred payment or for any valuable consideration. 'Works contract' includes any agreement for carrying out for cash, deferred payment or for any valuable consideration, building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning, of any movable or immovable property. Supreme Court held[9] that in a contract of sale the main object is the transfer of property and delivery of possession of the property, whereas the main object in a contract for work is not transfer of property but it is one for work and labour.

During the course of audit, it was noticed between November 2004 and November 2005 that AAs while finalising between December 2003 and January 2005 assessment of five dealers for the years 2001-02, 2002-03 and 2003-04, incorrectly treated contracts of sale as contracts for work. This resulted in short levy of tax and surcharge of Rs.21 lakh as detailed below:

(Rupees in lakh)

Sl. No.	Assessment circle (No. of dealers)	Year of transaction (Month/ Year of assessment)	Nature of transction	Taxable turnover	Rate of Tax (*per cent*)		Amount short levied
					Appli-cable	App-lied	
1	2	3	4	5	6	7	8
1	Thiruvan-miyur (One)	2002-03 (July 2004)	Contract for sale and installation of heat exchangers	85.96	12	4	7.22
After this was pointed out in July 2005, the assessing authority replied that transaction was one of works contract involving erection and installation of heat exchangers and hence the assessment made at four *per cent* was in order. The reply was not tenable as the contract involved sale and installation of heat exchangers and as such it should have been taxed as contract for sale and not as contract for work. This was clear from scrutiny of invoices which indicated manufacture and sale of heat exchangers.							

[9] Hindustan Shipyard Ltd. Vs. State of A.P.- 119 STC P.533 (SC).

1	2	3	4	5	6	7	8
2	Harbour II Nandanam (Two)	2002-03 (December 2003) 2003-04 (January 2005)	Contracts for supply and installation of generators	84.84	16	4	10.60
After this was pointed out in November 2004/November 2005, the department in one case contended that the contract was for supply, installation, erection and commissioning of generators and, therefore, the assessment made by treating it as works contract was in order. The reply was not tenable as major portion of contract involved sale of generator and installation was only incidental. As such it should have been treated as sale contract and taxed accordingly. The department in the other case revised the assessment and raised an additional demand of Rs.8.72 lakh; the collection particulars of which are awaited (November 2006).							
3	Nungam-bakkam (Two)	2001-02 (June 2004)	Contract for erection and installation of transmission towers.	20.59	12	4	1.65
		2003-04 (December 2004)	Contract for supply of modern aluminium partitions.	18.23	12	4	1.53
After this was pointed out in July 2005, the department revised the assessment in one case and raised additional demand of Rs.1.65 lakh; the collection particulars of which are awaited. Reply of the department in respect of the other case is awaited (November 2006).							
Total				**209.62**			**21.00**

The matter was reported to Government between January and April 2006. Government accepted the audit observation in two cases; reply in respect of other cases is awaited (November 2006).

2.6 Non/Short levy of additional sales tax

Under Section 2(1)(aa) of the Tamil Nadu Additional Sales Tax Act, 1970 (TNAST Act), additional sales tax is leviable at the rates prescribed from time to time, depending upon the taxable turnover. Explanation I to the said section envisages that "taxable turnover" in respect of a principal selling or buying goods through agents shall be the aggregate taxable turnover of all his agents relating to the sale or purchase of the goods of such principal within the State.

In Virudhunagar-I assessment circle, while finalising assessments of five dealers for the year 2002-03 between April 2004 and December 2004, the turnover representing sales effected through local consignment agents was not considered for levy of additional sales tax at the hands of the principal. Audit scrutiny revealed that while the principals were liable to pay additional sales tax of Rs.2.76 crore on the taxable turnover including that of their agents, the agents had paid additional sales tax of Rs.1.30 crore only. This resulted in non/short levy of additional sales tax of Rs.1.46 crore.

After this was pointed out, the territorial Assistant Commissioner accepted the audit observation and stated that necessary revision of assessment would be considered after recheck of accounts. Further report is awaited from the department (November 2006).

The matter was reported to Government in April 2006; reply is awaited (November 2006).

2.7 Evasion of tax noticed through cross check of records

Cross verification of details gathered from Central Excise Department and Southern Railways with the records maintained in Commercial Taxes Department revealed evasion of sales tax, inclusive of penalty, amounting to Rs.23.76 crore due to suppression of sales turnover and misclassification of goods as detailed below:

Central Excise Department

***Suppression of sales turnover*:**

2.7.1 As per the adjudication orders passed by Central Excise Department between November 2001 and May 2005, nine dealers suppressed sales valued at Rs.83.05 crore during the years 1998-99 to 2002-03. Cross verification of records maintained in nine commercial taxes assessment circles[10] with the above information revealed that the dealers did not disclose the said sales turnover to Commercial Taxes Department.

Out of these, seven dealers were registered dealers and had suppressed sales turnover of Rs.77.77 crore in their books of accounts and thereby evaded payment of tax of Rs.22.30 crore. The remaining two dealers were unregistered dealers. They had effected sales of Rs.5.27 crore involving tax of Rs.53.02 lakh. They were not assessed to tax at all. The department did not detect suppression of sales resulting in non realisation of tax and penalty of Rs.22.83 crore.

This was brought to the notice of the department between May and December 2005. The department in one case revised the assessment in January 2006 and raised additional demand of tax and penalty of Rs.3.58 lakh, the collection particulars of which are awaited (November 2006). Reply of the department in respect of other cases is awaited (November 2006).

---

10 Avarampalayam, Big Bazaar-Coimbatore, Chokkikulam, Hosur (South), Karur (East), P.N.Palayam-Coimbatore, R.S.Puram (West), Saligramam and Tiruchengode (Town).

Misclassification of sales turnover

2.7.2 Cross verification of records in three[11] assessment circles of Commercial Taxes Department with adjudication orders passed during the period between April 2005 and June 2005, by Central Excise Department, revealed that three dealers sold cotton cone yarn[12] valued at Rs.14.33 crore during the years 1999-2000 to 2001-02 but declared it as cotton hank yarn[13] in their sales tax returns and paid tax at lesser rate. This misclassification was also not noticed by the commercial tax authorities at the time of final assessment. This resulted in short levy of tax of Rs.28.66 lakh.

This was pointed out to the department in July/August 2005. Reply of the department is awaited (November 2006).

Railways

2.7.3 Cross verification of records in railways pertaining to supply of stone ballast with the assessment records in Commercial Taxes Department revealed that taxable turnover of Rs.10.06 crore in respect of nine assessees, pertaining to nine assessment circles escaped assessment. The amount of tax and penalty involved in these cases worked out to Rs.63.69 lakh as detailed below:

(Rupees in lakh)

Sl. No.	Assessment Circle (No.of dealers)	Assess-ment Year	Turnover escaped assessment	Revenue involved (inclusive of penalty)	Remarks
1	2	3	4	5	6
1	Arakonam (One)	2000-01	10.74	1.07	In all these cases, the dealers were registered under the TNGST Act and assessments were finalised between March 2002 and February 2005. The dealers suppressed sales turnover of Rs.6.73 crore, involving tax and penalty of Rs.30.01 lakh.
2	Mayiladuthurai-I (One)	2002-03 2003-04	22.46	2.36	
3	Tirumangalam (One)	2002-03	8.98	0.95	
4	Adyar-I (One)	2002-03 2003-04	260.37	10.63	
5	Mandaveli (One)	2001-02 2002-03	248.63	9.95	
6	Tambaram-II (One)	2002-03 2003-04	122.25	5.05	

11 Dharapuram, Perundurai and Singanallur.

12 Cotton yarn twisted and reeled on paper cone and used in power loom.

13 Cotton yarn wound on hand operated charka, used in hand loom.

1	2	3	4	5	6
7	Arisipalayam (One)	2000-01 2001-02	249.65	24.97	The dealer was registered under the TNGST Act, but did not disclose the turnover in his assessment, and the assessment was finalised as 'O' case[14] in August 2003.
8	Thanjavur-II (One)	2002-03 2003-04	19.64	2.06	The dealers were liable for registration, but had not registered themselves under the Act and no assessment was made by the department.
9	Pudukottai-I (One)	2002-03 2003-04	63.17	6.65	
Total			**1,005.89**	**63.69**	

This was brought to the notice of the department between May and October 2005; reply is awaited (November 2006).

The matter was reported to Government in March/April 2006; reply is awaited (November 2006).

2.8 Non levy of tax

2.8.1 Under the TNGST Act, pesticides, chemicals and electrical goods are taxable at the point of first sale in the State, while waste paper and plastic scrap are taxable at the point of last purchase in the State. Section 3-H of the Act provides for levy of resale tax of one *per cent* on the turnover of resale of goods with effect from 1 July 2002.

In four[15] assessment circles, while finalising the assessment of six dealers for the years 1996-97, 2001-02 and 2002-03 between October 2002 and March 2005, turnover of Rs.2.93 crore representing first sale of pesticides and chemicals, last purchase of waste paper/plastic scrap and resale of electrical goods was omitted to be assessed to tax. This resulted in non levy of tax of Rs.10.51 lakh.

After this was pointed out, the department revised the assessments in three cases between May 2005 and May 2006 and raised an additional demand of Rs.4.79 lakh, out of which an amount of Rs.2.96 lakh has been collected. Report on recovery of the balance amount and reply in respect of other cases is awaited (November 2006).

14 'O' case refers to assessments finalised with 'nil' taxable turnover.

15 Dindigul-III, Koyambedu, Manali and Sattur.

The matter was reported to Government between December 2005 and April 2006. Government accepted the audit observation in one case; reply in respect of other cases is awaited (November 2006).

2.8.2 TNGST Act provides that a dealer who had purchased goods at concessional rate of tax against form XVII fails to make use of the goods for the purpose for which these were purchased shall pay the difference of tax payable on the turnover relating to sale of such goods at the rate prescribed and three *per cent*. The Act also provides for levy of penalty not exceeding one and half times of the tax payable on the turnover.

In Trichy road assessment circle, while finalising the assessment of a dealer for the year 2003-04 in January 2005, tax with penalty amounting to Rs.6.40 lakh was not levied by the assessing authority, though timber valued at Rs.34.87 lakh purchased against Form XVII declaration, was sold without being used in any manufacturing activity.

After this was pointed out in September 2005, the department replied that the dealer had sold packing cases to 100 *per cent* EOU and, hence levy of tax and penalty was not warranted. The reply was not tenable as scrutiny of sale invoices revealed that the goods purchased were sold in original form to 100 *per cent* EOU. Hence tax and penalty were leviable.

This was brought to the notice of the Government in January 2006; their reply is awaited (November 2006).

2.8.3 Section 3(4) of the TNGST Act provides that a dealer who after purchasing goods at concessional rate, does not sell the goods so manufactured, but despatches them to a place outside the State either by branch transfer or transfer to an agent or in any other manner, except as a direct result of inter State sale or purchase, shall be liable to pay tax at one *per cent* of the value of goods so purchased.

In four[16] assessment circles, while finalising assessments of four dealers for the years 2000-01 to 2003-04 between March 2003 and March 2005, tax at one *per cent* on the value of goods purchased at concessional rate amounting to Rs.10.77 crore was either not levied or short levied, though the dealers, apart from local sales, had sent the manufactured goods outside the State otherwise than by way of sale or had exported the same. This resulted in non/short levy of tax of Rs.10.77 lakh.

This was pointed out to the department between December 2004 and March 2006; reply is awaited (November 2006).

The matter was reported to Government between December 2005 and April 2006. Government accepted the audit observation in three cases and stated that necessary revision of assessment had been made; reply in respect of remaining case is awaited (November 2006).

---

16 Aruppukottai, Panruti (Rural), Sivakasi-III and T.Nagar (South).

2.9 Non levy of interest for belated payment of tax

Tax under sub section 2 of Section 13 of the TNGST Act shall become due without any notice of demand to the dealers on the date of receipt of the return or on the last due date as prescribed, whichever is later. According to the provisions of Section 24(3) of the TNGST Act, in case of any amount remaining unpaid after the date specified for its payment, the dealer or person shall pay, in addition to the amount due, interest at two *per cent* per month of such amount, for the entire period of default. According to Section 9(2) of the CST Act, the provisions relating to interest on belated payment of tax under TNGST Act shall apply in respect of interest leviable under the CST Act.

In six[17] assessment circles, tax of Rs.94 lakh relating to assessment years 1994-95, 1995-96, 1997-98, 1998-99, 2000-01, 2001-02 and 2003-04 was paid belatedly by seven dealers between March 2003 and March 2005; the delay ranging from 19 days to 87 months. Interest amounting to Rs.36.84 lakh leviable for such belated payment of tax was, however, not levied.

After this was pointed out between December 2004 and January 2006, the department levied interest of Rs.2.62 lakh in two cases in February/June 2005 and collected the same in October 2005. Reply of the department in respect of other cases is awaited (November 2006).

The matter was reported to Government between November 2005 and February 2006. Government, in one case, accepted the audit observation in March 2006; reply in respect of other cases is awaited (November 2006).

2.10 Non levy of penalty for excess collection of tax

According to Section 22(1) of the TNGST Act, only registered dealers shall collect any amount by way of tax, and such collection shall be in accordance with the provisions of the Act or the rules made thereunder. The Act provides for levy of penalty at prescribed rate for excess collection of tax.

In three[18] assessment circles, three dealers effected unauthorised/excess collection of tax during the years 1999-2000, 2001-02 and 2002-03, for which penalty amounting to Rs.6.47 lakh, though leviable, was not levied while finalising the assessments between October 2003 and March 2004.

After this was pointed out between July 2004 and March 2006, the department levied penalty of Rs.5.28 lakh in two cases in March/July 2005 and collected an amount of Rs.2.82 lakh. Report on recovery of the balance amount and reply in respect of the other case are awaited (November 2006).

---

17 Aruppukottai, Fast Track Assessment Circles II & III, Chennai, Salem (Bazaar), Tiruppur (Rural) and Tiruvanmiyur.

18 Guindy, Koyambedu and Nungambakkam.

The matter was reported to Government between December 2005 and March 2006. Government accepted audit observation in two cases; reply in respect of remaining case is awaited (November 2006).

2.11 Non levy of penalty under the CST Act

Under the CST Act, a registered dealer buying goods from other States is entitled to a concessional rate of tax of four *per cent*, provided he furnishes to the seller, a declaration in form 'C'. If the goods indicated in the declaration are not covered by the certificate of registration, the assessee renders himself liable to penalty not exceeding one and half times of the tax due.

In two[19] assessment circles, three dealers purchased goods such as load cell, cement, cement board and paint for Rs.50.71 lakh during the years 1992-93, 2001-02 and 2003-04 from other States by furnishing 'C' form declarations, though the commodities purchased were not covered by their certificate of registration. Penalty amounting to Rs.9.35 lakh leviable for misuse of declarations in form 'C' was, however, not levied while finalising the assessments between December 2002 and December 2004.

After this was pointed out between January 2004 and August 2005, the department levied penalty of Rs.9.35 lakh between April and December 2005; the collection particulars of which are awaited (November 2006).

The matter was reported to Government between January and March 2006. Government accepted the audit observations.

[19] Dindigul (Rural) and Valluvarkottam.

CHAPTER III

STAMP DUTY AND REGISTRATION FEES

3.1 Results of audit

Test check of records of departmental offices conducted during the period from April 2005 to March 2006 revealed under valuation, etc., amounting to Rs.275.89 crore in 444 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1	Under valuation	34	9.57
2	Misclassification	70	0.90
3	Others	339	14.63
4	Review on **Receipts from stamp duty and registration fees**	1	250.79
	Total	**444**	**275.89**

During the course of the year 2005-06, the department accepted under assessment etc., amounting to Rs.1.16 crore in 189 cases, out of which, Rs.32.52 lakh involving 48 cases were pointed out during the year and the rest in earlier years. Of these, department recovered Rs.81.96 lakh.

After issue of draft paragraphs, the department recovered Rs.1.26 crore by way of adjustment in a single case during the year 2005-06.

A review on **Receipts from stamp duty and registration fees** and a few illustrative cases involving Rs.76.66 crore are discussed below:

3.2 Review on the receipts from stamp duty and registration fees

Highlights

- **Absence of provision for levy of stamp duty on power of attorney registered without consideration, resulted in foregoing of Government revenue of Rs.141.55 crore in 2,846 instruments.**

[Paragraph 3.2.6]

- **Unconditional exemption of stamp duty in case of transfer of property between holding and subsidiary companies resulted in foregoing of revenue of Rs.19.97 crore.**

[Paragraph 3.2.7]

- **Short levy of stamp duty due to misclassification of bonds of Rs.21.24 crore.**

[Paragraph 3.2.9]

- **Omission to collect stamp duty on the issue of bonds through demat system resulted in non realisation of revenue of Rs.39.10 crore.**

[Paragraph 3.2.10]

- **Failure to prescribe the rate of stamp duty on value basis in respect of shares issued through demat system by companies resulted in non levy/collection of stamp duty of Rs.5.63 crore.**

[Paragraph 3.2.11]

- **Absence of provision in the Indian Stamp Act for registration of apartments resulted in non realisation of revenue of Rs.11.84 crore.**

[Paragraph 3.2.12]

Recommendations

Government may consider

- providing conditions for exemption of stamp duty granted to transfer of immovable properties between a parent company and its fully owned subsidiary,

- introducing a comprehensive legislation to provide for levy of stamp duty for the existing building structures in addition to undivided share of land,
- introducing a complementary provision to Section 8A of the Indian Stamp Act specifying the rate of duty to be paid on the value of securities issued in demat form,
- evolving mechanism for co-ordination among Registration Department, SEBI[20], Registrar of Companies and Reserve Bank of India in respect of issue of securities to avoid leakage of revenue; and
- fixing rate for registration of deed of apartments.

Introduction

3.2.1 The Indian Stamp Act, 1899, (IS Act) as amended by Government of Tamil Nadu from time to time provides for levy of stamp duty on various instruments. The rates of stamp duty which are prescribed in Schedule I to IS Act are adopted by Government of Tamil Nadu with suitable amendments. Besides, registration fee is levied in accordance with Registration Act, 1908.

Organisational set up

3.2.2 The Inspector General of Registration (IGR) is the head of the department. He is assisted by nine Deputy Inspectors General of Registration at zonal level. There are 50 registration districts and 558 sub districts supervised by Assistant Inspectors General of Registration/District Registrars and District Registrars/Sub Registrars respectively. In addition, there are two District Revenue Officers (Stamps) and nine Special Deputy Collectors (Stamps) for determination of market value of properties in certain classes of documents under Section 47 A of IS Act. The monitoring and control at Government level is done by Secretary, Commercial Taxes and Registration Department.

Scope of audit

3.2.3 Records for the period from 2000-01 to 2004-05 of the IGR and 175 out of 558 registering offices were test checked between August 2005 and May 2006. The units were selected on the basis of revenue realisation and in case of bonds/securities, the required information was collected from selected companies/bodies that issued the bonds/securities.

---

[20] Securities and Exchange Board of India.

Audit objectives

3.2.4 The review was conducted with a view to

- examine the efficiency and effectiveness of the system and procedures relating to collection of stamp duty and registration fee;
- examine whether there are any lacunae in the Act/absence of specific provisions in the Act, with revenue implications to Government.

Trend of revenue

3.2.5 The budget estimates and actuals of stamp duty and registration fees for the years 2000-01 to 2004-05 are given below:

(Rupees in crore)

Year	Budget estimates	Actuals	Variations excess (+) or short fall (-)	Percentage of variation
2000-01	947.40	910.20	(-) 37.20	(-) 4
2001-02	990.39	1,137.89	147.50	15
2002-03	1,285.30	1,079.12	(-) 206.18	(-) 16
2003-04	1,278.61	1,316.40	37.79	3
2004-05	1,350.23	1,604.36	254.13	19

As per the budget manual, whenever the budget is prepared, the aim is to achieve as close an approximation to the actuals as possible. It is essential that not merely should all items of revenue that can be foreseen be provided but only so much as is expected to be realised, including past arrears should be provided in the budget.

However, from the above table it is seen that there was a huge variation between budget figures and actuals during 2001-02, 2002-03, 2004-05 indicating therein that budget estimates were not realistic. The department stated that shortfall of actuals during the year 2002-03 was due to more payment of stamp duty to local bodies by Government.

Loss of revenue due to lacuna in the Act

3.2.6 As per the IS Act, rate of stamp duty for a deed of "power of attorney" when given for a consideration was the same as that applicable to conveyance deed. However, the Act is silent about "power of attorney" when given without consideration.

Test check of 2,846 instruments revealed that the executants had given absolute right to their agents for demolition, promotion, construction, sale, etc., of the properties. All these properties were registered in 28[21] sub registries without any consideration charging a stamp duty of Rs.100 for each document. It means a transfer of property in the guise of power of attorney which should otherwise be treated as conveyance. Due to absence of provision of charging stamp duty on these documents, revenue of Rs.141.55 crore was foregone.

After this was pointed out to the department, the IGR stated in February 2006 that proposal to revise the stamp duty rates for general power of attorney was under consideration of the department. Government stated in July 2006 that amendment for levying higher rate of duty would be considered.

Unconditional exemption of stamp duty in case of transfer of property between holding and subsidiary companies

3.2.7 As per Section 2(6) of the IS Act, chargeability of stamp duty arises on the date of execution. Section 9 of the Act empowers Government to reduce or compound or remit the stamp duty. Accordingly, Government issued an order (April 1964) wherein it was stated that instruments evidencing transfer of properties between parent company and its wholly owned subsidiary company (holding 90 *per cent* or more of the shares) are exempted from stamp duty. Availing the said concession, 43 transfers were effected during the period from April 2000 to March 2005 without payment of any stamp duty.

Mention was made in the Audit Report 1988-89 for withdrawal of the above mentioned concession granted to the companies. Government, while discussing the report stated before PAC[22] that the concession granted was not justified and IGR would be directed to send a fresh proposal regarding the same.

Proposals for withdrawal of the exemption were sent to Government by the IGR in August 2001, but orders have not been issued so far.

An examination of four cases in the light of the Government Order (GO) granting concession revealed a loss of stamp duty of Rs.19.97 crore as detailed below:

---

[21] Adyar, Ambattur, Anna Nagar, Avadi, Chengalpattu, Ganapathy, Guduvanchery, Kundrathur, Mylapore, Neelangarai, Padappai, Pallavaram, Pammal, Peelamedu, Periamet, Poonamallee, Purasawakkam, Rajaveedhi, Royapuram, Saidapet, Sembium, Tambaram, Thiruporur, Thousand Lights, T.Nagar, Vadavalli, Velachery and Virugambakkam.

[22] 94th Report/XI Assembly presented on 22 April 1998.

3.2.7.1 In Sub Registry, Adyar it was noticed that a company "X", transferred its property valued at Rs.13.75 crore to three subsidiaries in February 1999. Subsequently another company "Y" acquired the shares of these three subsidiaries from company "X". In December 2002 the three subsidiaries transferred the said property valued at Rs.13.75 crore to the company "Y" without any liability to pay stamp duty. Thus, the transfer of property through subsidiaries deprived Government of stamp duty of Rs.3.51 crore.

3.2.7.2 In Sub Registry, Virugambakkam, it was noticed that capital of a company "A" was increased from Rs.5 lakh to Rs.50 lakh and the increased capital of Rs.45 lakh was acquired by another company "B" which became the parent company. Within 18 days of such transfer of shares, the subsidiary company "A" sold property valued at Rs.97 crore by just paying Rs.20 as stamp duty which was objected to by the registering officer and the district registrar but was allowed later on by Chief Controlling Revenue Authority (CCRA) stating that the GO issued in April 1964 did not specify any condition other than fulfilling the condition of 90 *per cent* holding. Thus lacuna in the GO resulted in loss of stamp duty of Rs.12.61 crore.

3.2.7.3 It was noticed in Joint I Sub Registry, Ooty, that a property worth Rs.1.12 crore was transferred from a company "P"to another company "Q" on 27 January 1995. The document was registered on 3 July 2001 allowing exemption from payment of stamp duty treating it as transaction between parent and subsidiary company. A scrutiny of the records, however, revealed that the instrument was executed on 27 January 1995 itself and the transferee company became the subsidiary of the parent company only on 30 January 1995. As such, the exemption allowed was not in order and resulted in non levy of stamp duty amounting to Rs.13.44 lakh.

3.2.7.4 In Sub Registry, Uthukuli, it was noticed that a company `A' allotted 1.55 crore shares to another company `B' on 30 June 2000. Through a sale deed executed on the same day, the property was transferred from `B' to `A' with a specific clause for consideration, the shares to be allotted subsequently. Thus, it was evident, that at the time of execution, the transferor company was not holding 90 *per cent* shares of the transferee company as allotment of shares took place only after the execution of instrument. This resulted in incorrect exemption of stamp duty of Rs.3.72 crore.

After this was pointed out, Government stated that the withdrawal of the said exemption was under consideration.

Inordinate delay in amending the law to prevent leakage of revenue

3.2.8 As per Article 5(i) inserted by Tamil Nadu Act 38 of 1987, in respect of an agreement relating to construction of a house or building including the multi unit house or building by the vendor on land sold by such vendor and containing stipulation that such land together with such house/building/multi unit house or building so constructed shall be held either individually or jointly by the vendee of such land, stamp duty is leviable on the cost of the proposed construction. The article attracts only those agreements entered into by the vendor of the land and the vendee but does not include agreements between builder and the ultimate buyer.

The department in 1988 issued a circular instructing all DIGs to physically verify whether there was any suppression on registration of building portion of the property alongwith the undivided share of land and such cases should be registered only on collection of deficit amount of stamp duty involved. The Honourable High Court of Madras (1990)[23] while holding the circular as untenable, had also opined that the provisions of Article 5(i) are valid, though badly drafted. The court had also observed that the amendments effected were far short of the loopholes which required to be plugged and a more rigorous and comprehensive legislation than enacted in Delhi and Maharashtra was required to be enacted expeditiously without any power of exemption in Government to relax any of these provisions under any circumstance. In 2000, the Supreme Court confirmed the verdict of the High Court, but no amendment was brought out (till date) to arrest leakage of revenue.

Cross verification of records of two[24] corporations and Chennai Metropolitan Water Supply and Sewerage Board with sale deeds registered in four registering offices in Chennai and Madurai revealed that in respect of 455 flats, sale deeds were executed only for the undivided share of land. The buildings constructed on the land were not included though they were in existence at the time of execution of the deeds. This resulted in foregoing of revenue of Rs.2.02 crore as detailed below:

(Rupees in crore)

Sl. No.	Name of the registering office	No.of documents	Value of the building portion	Amount involved
1	Virugambakkam	139	4.96	0.52
2	Annanagar	174	7.19	0.95
3	Kodambakkam	113	3.39	0.44
4	Arasaradi	29	0.79	0.11
	Total	**455**	**16.33**	**2.02**

23 Messers Park View Enterprises Vs. State of Tamil Nadu.
24 Chennai and Madurai.

As building was constructed through an agreement between builder and the buyer, stamp duty could not be levied as no provision existed in IS Act. This resulted in foregoing of revenue of Rs.2.02 crore.

After this was pointed out in November 2005/May 2006, Government stated in December 2005/July 2006 that proposal to amend IS Act to provide for levy of stamp duty for the building portion would be considered.

Short levy of stamp duty due to misclassification of bonds

3.2.9 Bond comes under the meaning of securities as per Section 2(16-A) of IS Act, read with Section 2(h) of the Securities Control (Regulation) Act, 1956. It is capable of being sold in any stock market in India whereas promissory note is not marketable in the stock market. According to Section 2(12) of Companies Act, 1956, "debenture" includes bonds. Bond specifies a particular period or date as the date of repayment. It also provides for the payment of a specified principal and interest at the specified date.

During the course of audit, it was noticed that five companies paid stamp duty on bonds at the rate applicable to the promissory notes. The bonds were issued under the name 'bonds in the nature of promissory note'. But recitals of these documents revealed that they could not be redeemed during their tenure and were capable of being sold in stock market. Therefore, they had the essential features of bonds and stamp duty should have been levied accordingly. Incorrect classification of instrument resulted in short levy of stamp duty amounting to Rs.21.24 crore in respect of 14 issues as detailed below:

(Rupees in crore)

Sl. No.	Name of the issuer	Number of issues	Value of bonds issued	Stamp duty due	Stamp duty paid	Short levy of stamp duty
1	Indian Overseas Bank, Chennai-2.	8	1,129.22	27.10	8.54	18.56
2	Lakshmi Vilas Bank Ltd.	2	70.00	1.68	0.23	1.45
3	Canara Bank	2	25.00	0.60	0.25	0.35
4	Madras Fertilisers Ltd., Chennai-68	1	1.30	0.03	0.01	0.02
5	Bharat Overseas Bank Ltd., Chennai-2	1	40.00	0.96	0.10	0.86
	Total	**14**	**1,265.52**	**30.37**	**9.13**	**21.24**

After this was pointed out, the Government stated in August 2006 that to treat an instrument as a Bond there must be an obligation on the part of the borrower to pay money to another on condition that the obligation shall be void if a specified act is performed or is not performed and such an instrument should be attested by a witness and there should not be any words like, payable to order or bearer. In the instant cases of Bonds issued in the nature of promissory notes, there is no obligation on the part of the issuer to pay the amount. Further, the instruments in question are not attested and also transferable by endorsement and delivery. Hence, the instruments in question are chargeable to duty as applicable to a promissory note only. This is not tenable since, besides the points mentioned above, bonds are not encashable during the tenure period available on the bonds issued and no put/call options is provided. Further eventhough the issue comprises the properties of both 'bond' and 'Promissory Note' stamp duty should have been levied at higher rate as provided for under Section 6 of IS Act.

Omission to collect stamp duty on the issue of bonds through demat system (depositories)

3.2.10 According to the provisions of Section 8A(a) of the IS Act, an issuer by issue of securities which include, bonds to one or more depositories in respect of such issue, be chargeable with duty on the total amount of security issued by it and such securities need not be stamped at the rates specified under Article 15 of the Act *ibid*.

Details regarding issue of bonds through demat obtained from two depositories and two registrars (share transfer agents) revealed that 11 issues of bonds were made during the period from 2000-01 to 2004-05 for which stamp duty was not levied. This resulted in non realisation of stamp duty of Rs.39.10 crore.

After this was pointed out, department in their reply in May 2006 stated that the companies/corporation/banks mentioned have not applied, seeking permission to pay consolidated stamp duty. The above facts reveal that department should evolve a mechanism for co-ordination among Registration Department, SEBI, Registrar of Companies and RBI in respect of issue of securities to avoid leakage of revenue.

Failure to prescribe the rate of stamp duty on value basis in respect of shares issued through depositories

3.2.11 The Act envisages that an issuer by issue of securities which include share to one or more depositories in respect of such issue, be chargeable with duty on the total amount of security issued by it and such securities need not be stamped. No rate has been provided in the Act for levy of duty on value of shares issued through demat.

Information regarding issue of shares by listed public companies in the State of Tamil Nadu during the period from 2000-01 to 2004-05 was collected from the respective registrars/depositories of the listed companies as shown below:

(Rupees in crore)

Sl. No	Name of the Registrar/ depositories	No. of listed public companies involved	Total value of shares issued	Value of shares issued in physical form	Value of shares issued in electronic mode	Stamp duty at one *per cent* on the value of shares issued
1	M/s.Integrated Enterprises (India) Limited. Chennai 600 017.	10	80.34	13.76	66.59	0.67
2	M/s. Cameo Corporate Services Limited. Chennai 600 002.	7	489.32	241.89	247.38	2.47
3	National Securities Depositories Limited/ Central Depositories Services (India) Limited	23	718.01	469.41	248.61	2.49
	Total	**40**	**1,287.67**	**725.06**	**562.58**	**5.63**

It was noticed that none of the companies had paid any stamp duty on the ground that there was no article provided in the Act to levy stamp duty. Even if a minimum rate of one *per cent* based on issue of securities by local bodies under Section 8 was collected, Government would have earned a revenue of Rs.5.63 crore in respect of 40 companies.

After this was pointed out, Government replied in July 2006 that suitable amendments would be made to prescribe the rate for such issues at one *per cent*.

Absence of provisions in the IS Act for registration of apartments

3.2.12 The Tamil Nadu Apartment Ownership Act, 1994, which came into force with effect from 7 April 1997 stipulates that a deed of apartment together with the floor plan of the building shall be registered compulsorily. Though the above provisions were promulgated in 1997, no rate for levy of stamp duty and registration fees has been provided in the IS Act. The IGR recommended to Government in June 1997 for introducing a new Article 66 under Schedule I of the Stamp Act, fixing stamp duty at the rate of Rs.500 and fee of Rs.50 per apartment.

It was noticed in Chennai Corporation and five[25] municipalities adjoining Chennai, that 2.15 lakh apartments were not registered as on 31 March 2005. Consequently stamp duty and registration fees were not paid by the owners. Government has foregone a revenue of Rs.11.84 crore towards stamp duty and registration fees.

[25] Alandur, Erode, Pallavaram, Tambaram and Thiruvotriyur.

After this was pointed out, Government in July 2006 accepted the audit observation and stated that since the Act was passed by the Housing Department, they would be consulted to arrive at a decision.

Loss of revenue due to incorrect exemption

3.2.13 According to notification dated 29 June, 1966 issued under Co-operative Societies Act, remission of stamp duty chargeable under the IS Act was admissible in respect of instruments executed by a member of a registered co-operative society provided that the executant was a member of such society continuously for a period of not less than two years.

Scrutiny of instruments registered in nine[26] offices in Chennai zone revealed that in 410 cases, members of societies sold their lands to the societies. These instruments were exempted for payment of stamp duty incorrectly eventhough the executants were not members of the society for a continuous period of not less than two years. Incorrect grant of exemption resulted in a loss of revenue of Rs.4.05 crore.

After this was pointed out, the registering officer replied in December 2003 that as clarified by IGR in May 1995 two years continuous membership condition was applicable only to house construction co-operative societies and hence the remission was in order. The clarification issued by IGR was incorrect as the second proviso of the notification clearly indicates that exemption is admissible only to those members who are in continuous membership of two years or more.

Incorrect remission granted on registration fees under samadhan scheme

3.2.14 Government of Tamil Nadu issued orders[27] for implementation of samadhan scheme by which remission of 40 *per cent* of the difference of duty chargeable on value of the properties as proposed by the registering officer and duty already paid was ordered to be given in respect of instruments referred to SDC (Stamps). The scheme was implemented from 28 December 2004 to 27 March 2005. The said GO did not provide for remission of registration fees.

IGR issued a circular extending the remission to registration fees also. This circular was not in consonance with the GO and remission resulted in loss of revenue of Rs.5.39 crore in 33,067 documents.

---

26 Ambattur, Chengalpattu, Joint-II Chennai, Konnur, Kunrathur, Neelangarai, Pammal, Saidapet and Thirukazhikundram.

27 vide G.O. Ms No 193 CT & RE Department, dated 27 December 2004.

After this was pointed out, the Government stated in August 2006 that it had clarified that remission granted to stamp duty would be applicable to registration fee also. This is not tenable since the clarification is merely an executive order. It cannot supercede a notification. In view of this, the remission is not correct and hence the objection is reiterated. Further reply is awaited (November 2006).

Conclusion

3.2.15 No periodical review has been done in the cases of exemption from stamp duty. There are certain lacunae in the IS Act leading to leakage of revenue. Further no mechanism exists for co-ordination among the department/institutions concerned for preventing leakage of revenue in case of securities and for valuation of buildings. The above deficiencies have resulted in foregoing of revenue due to Government.

Acknowledgement

3.2.16 The review was discussed with Government/department in the Audit Review Committee meeting held in July 2006. The views expressed at the meeting by Government have been incorporated in the respective paragraphs.

3.3 Short levy due to under valuation of property

According to Section 27 of the IS Act, consideration, market value and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth in the instrument. As per Sub Rule 3 of Rule 3 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, the registering officer may, for the purpose of finding out, whether market value has been correctly furnished in the instrument, make such enquiries as he may deem fit. The rate of stamp duty was 13 *per cent* upto 20 November 2003 and eight *per cent* thereafter. The rate of registration fees is one *per cent*.

3.3.1 Test check of records of office of the Joint-IV Sub-Registrar, Madurai between November 2004 and February 2006 revealed that lands measuring 18.46 lakh square feet in Madakulam village, within Madurai Corporation area were conveyed through seven sale deeds registered in April 2003 and March 2005 for a consideration of Rs.30.49 crore. Market value prevailing in the nearby area was Rs.291 per square foot. However, while executing the deed a portion of land measuring 28.76 acres was under valued by Rs.25.12 crore. The rates applied for this portion were Rs.82.50, Rs.88 and Rs.195 per square foot. This resulted in short levy of stamp duty and registration fees of Rs.2.63 crore.

This was pointed out to the department in December 2005/ February 2006 and Government in March 2006. The department replied that the rate of Rs.291 per square foot was fixed for the property abutting the main road and not for all fields situated away from the main road without road accessibility. Further Government contended (September 2006) that (i) there was no violation in having registered the documents for a value higher than the guideline value and (ii) eventhough no transaction was there in the said lands, normal growth rate had been adopted during guideline revision.

The replies were not tenable since (i) for the lands situated nearer to the road, the rate adopted was Rs.82.50 per square foot and for the lands situated away from the road, the rates adopted were Rs.195 and Rs.291 per square foot, (ii) as explained in the Tamilnadu Stamp (Prevention of Under valuation of instruments) Rules, 1968 that the entries made in the guideline register regarding value of properties, cannot be a substitute for market price and (iii) eventhough the departmental authorities themselves had fixed higher rate ranging from Rs.250 per square foot to Rs.350 per square foot in July 2003 itself, documents were allowed to be registered with a rate of Rs.88 per square foot. Further report is awaited (November 2006).

3.3.2 In the office of the Joint II Sub-Registrar, Saidapet, land measuring 34,109 square feet was conveyed in August 2003 by a sale deed. It was noticed in January 2005 that consideration/market value of the land was arrived at by adopting the rate of Rs.689 per square foot applicable to the area 'PCM Colony' even though the land conveyed is actually on the 'GST Road' for which the rate applicable was Rs.970 per square foot. Thus, due to adoption of incorrect rate there was an under valuation of property by Rs.95.85 lakh and consequent short levy of stamp duty and registration fees of Rs.8.63 lakh.

3.4 Incorrect classification of an instrument of conveyance as certificate of sale

According to Article 18 of Schedule I to the IS Act, if certificate of sale, in respect of each property put up as a separate lot and sold, is granted to purchaser of any property sold by public auction by a civil or revenue court or collector or other revenue officer and the purchase money exceeds Rs.50, stamp duty is leviable as a conveyance for a market value equal to the amount of the purchase money. As per Article 23, duty on conveyance shall be charged on the market value.

During scrutiny of records of office of District Registrar (Chennai Central) in November 2005, it was noticed that a property which was referred to debt recovery tribunal was sold for a consideration of Rs.3.10 crore as agreed to by the parties. As the sale consideration was not determined by conducting any public auction, the instrument was liable to be charged stamp duty as that of a conveyance deed on the market value of Rs.5.88 crore. However, the registering officer incorrectly treated the sale as certificate of sale by public

auction and charged stamp duty of Rs.21.70 lakh instead of Rs.52.90 lakh leading to short realisation of stamp duty of Rs.31.20 lakh.

The matter was reported to the department and Government (March 2006). Government accepted the audit observation in June 2006; report on recovery is awaited (November 2006).

CHAPTER IV
OTHER TAX RECEIPTS

4.1 Results of audit

Test check of records of departmental offices conducted during the period from April 2005 to March 2006 revealed under assessment/non levy of urban land tax, electricity duty, land revenue, agricultural income tax and other irregularities amounting to Rs.23.40 crore in 198 cases as shown below:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
	Urban land tax		
1	Under assessment/non levy of urban land tax	40	7.35
2	Other irregularities	2	0.03
	Sub Total	**42**	**7.38**
	Electricity duty		
1	Non levy/collection of inspection fees, testing fees, fine and penalty	4	0.01
2	Non levy/collection of electricity duty, electricity tax and additional tax	7	1.41
3	Non renewal/collection of licence fees under Lift Act, 1997	6	0.02
4	Non collection of interest for belated payment of electricity tax.	5	0.05
	Sub Total	**22**	**1.49**
	Land revenue		
1	Non/short levy of local cess and local cess surcharge	2	0.31
2	Non levy of penalty/interest	13	0.51
3	Short recovery of value of rent in respect of lands assigned, alienated or evicted	6	1.10
4	Others	107	12.34
	Sub Total	**128**	**14.26**
	Agricultural income tax		
1	Arithmetical error/incorrect allowance of expenditure and exemptions/non levy of interest and penalty/incorrect carry forward of loss	6	0.27
	Sub Total	**6**	**0.27**
	Grand Total	**198**	**23.40**

During the year 2005-06, the department accepted non assessment of Rs.24.87 lakh in 47 cases pertaining to earlier years, of which an amount of Rs.0.52 lakh has been collected.

A few illustrative cases involving a financial effect of Rs.1.37 crore are mentioned below:

URBAN LAND TAX

4.2 Omission to assess urban lands

Under the Tamil Nadu Urban Land Tax Act, 1966, as amended from time to time, urban lands are assessable to urban land tax from 1 July 1991 on the basis of market value of lands, as on 1 July 1981.

Cross check of records of Joint IV Sub-Registrar, Madurai with Madurai assessment division (urban land tax) revealed in September 2005 that land measuring 62 acres 10 cents situated in Madakulam village was purchased by an assessee in October 1990 and September 2000 and was utilised for running a three star hotel for the past 15 years. Though urban land tax was leviable on the said land, it was not levied. This resulted in non levy of tax amounting to Rs.52.29 lakh, out of which Rs.23.96 lakh pertains to last five years.

The matter was reported to the department (October 2005) and Government (December 2005); reply is awaited (November 2006).

ELECTRICITY DUTY

4.3 Non levy of electricity tax

According to Section 3 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 which came into force with effect from 16 June 2003, every licensee shall pay every month to Government, in the prescribed manner, a tax on the electricity sold or consumed during the previous month at the specified rates. As per Section 9 of the Act, if no return as prescribed in Section 8 ibid in respect of any period is submitted by a licensee, the Director shall, after giving such person a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment, the amount of electricity tax payable under this Act by such licensee. The rate of tax payable on electricity consumed is 10 paise per unit.

It was noticed in December 2005 in the office of Electrical Inspector, Villupuram that in respect of two licensees, electricity tax leviable for electricity generated by their own captive generating plants was not levied. This resulted in non levy of electricity tax of Rs.1.02 crore as detailed below:

11 MAY 2007
Chennai-600 0.2

(Rupees in lakh)

Sl. No.	Name of the licensee	Nature of irregularity	Number of units generated	Tax leviable
1	A	Licensees have neither filed any return nor were they assessed under best judgment basis.	70,000 units per day x 655 (16.06.03 to 31.03.05) = 4,58,50,000	45.85
2	B		86,085 units per day x 655 = 5,63,85,675 Diesel 10,000 units/year x655/365 =17,945 units Total 5,64,03,620	56.40
	Total			**102.25**

The matter was reported to the department (February 2006) and Government (February and March 2006). Government accepted the audit observation (October 2006). Further report is awaited (November 2006).

8013
350.7232 R
P06

LAND REVENUE

4.4 Non assignment of Government poramboke lands

Board's Standing Order 24(1) provides for collecting the market value of land granted to a company, individual or institution for any public purpose.

In the office of tahsildar (Land Revenue) Katpadi, it was noticed in February 2003 that lands measuring 150.04 acres were sought for by the North Arcot Educational Trust in the year 1984, but permission was given to use only 98.80 acres. Though the trust requested for assignment of remaining 51.24 acres as early as in 1998, Government has not taken any decision so far. It is pertinent to mention that the said lands were under the possession and enjoyment of the trust since 1984.

Government by an order in March 2001 regularised the permission of 98.80 acres and assigned the lands by collecting the market value, but neither resumed the remaining 51.24 acres of lands nor assigned the lands by collecting the prevailing market value. The said lands are located between lands in the same survey numbers which have already been assigned to the trust. This resulted in non realisation of land cost amounting to Rs.58.52 lakh.

After this was pointed out in April 2003, the department replied in December 2005 that Government has rejected the proposal of alienation and has further stated that the lands were handed over to Tamil Nadu District Sports Development Centre. The reply is not tenable since the survey numbers mentioned in the Government order do not tally with the survey numbers

included in the audit objection. The matter was again reported to the department in March 2006; reply of which is awaited (November 2006).

AGRICULTURAL INCOME TAX

4.5 Omission to levy interest and penalty for non payment of (advance) tax

Under the Tamil Nadu Agricultural Income Tax, Act, 1955, every person liable to pay agricultural income tax on agricultural income derived by him during the previous year, shall pay advance tax for the said previous year on or before the end of February of the said previous year. The advance tax shall not be less than 80 *per cent* of the tax due on the estimated total agricultural income derived by him during the said previous year. The balance amount of tax shall be payable by the assessee before 31 December of that year or in pursuance of demand notice issued, failing which the assessee shall pay simple interest at 15 *per cent* per annum. Further the assessing authority may direct that a sum equal to two *per cent* of such tax or part thereof, may be recovered from him by way of penalty for every month of default.

Scrutiny of records of Agricultural Income Tax Office, Nagercoil, in December 2005 revealed that an assessee company had neither paid the advance tax of Rs.19.34 lakh, nor regular tax of Rs.25.28 lakh for the assessment year 2002-03. However, the assessing officer while finalising the assessment in June 2003, failed to levy interest and penalty upto the date of assessment. This resulted in non levy of interest of Rs.4.31 lakh and penalty of Rs.6.90 lakh totalling Rs.11.21 lakh.

The matter was reported to the department in January 2006 and to Government in March 2006; reply is awaited (November 2006).

CHAPTER V

NON TAX RECEIPTS

5.1 Results of audit

Test check of records in the offices of Mining, Finance, Police Department conducted during the period from April 2005 to March 2006 revealed under assessment, etc., amounting to Rs.763.81 crore in 57 cases which broadly fall under the following categories.

(Rupees in crore)

Sl.	Categories	No. of cases	Amount
A	**Mines and Minerals**		
	Non/short levy of royalty, dead rent and seigniorage fee	31	25.92
	Others	22	15.27
B	**Interest receipts**	1	275.95
C	**Review on Police receipts**	1	444.24
D	**Municipal Administration and Water Supply**	1	0.06
E	**Environment and Forest**	1	2.37
	Total	**57**	**763.81**

During the course of the year 2005-06, the concerned departments accepted and collected under assessments of Rs.14.88 lakh in 10 cases, out of which, Rs.11.17 lakh involving one case was pointed out during the year and the rest in earlier years.

After issue of draft paragraph, the department recovered Rs.11.17 lakh in one case during the year 2005-06.

A review on **police receipts** and a few illustrative cases involving Rs.120.74 crore are mentioned below:

A - MINES AND MINERALS

5.2 Non realisation of lease amount

According to Rule 8 A of the Tamil Nadu Minor Mineral Concession Rules, 1959, as amended in G.O.Ms.No.103 Industries Department dated 13 July 1996, the State Government may grant quarry leases to any person in respect of granite, subject to certain conditions, following the procedure prescribed in the rules. The minimum and maximum periods of lease are 20 years and 30 years respectively. As per sub rule 11 of Rule 8 A, as it stood upto 9 June 1992, the lease granted under this rule may be renewed for a period not exceeding 20 years subject to certain conditions. This rule was deleted in June 1992 and reintroduced with certain modification in February 2001. Further for renewal, the lessee was required to apply one year prior to completion of the lease period and pay 150 *per cent* of lease amount.

It was noticed in the office of Assistant Director (Geology and Mining) Dharmapuri in October 2005 that lease for quarrying black granite granted for a period of 10 years from March 1991 to a company was not renewed from 28 March 2001 and the company was allowed to continue mining operations. The company applied for renewal on 28 March 2000. On a writ petition filed by the lessee, the Honourable High Court of Madras directed Government in December 2002 to dispose of the renewal application within three months. However, Government has not taken any action so far. The demand draft dated 23 March 2000 for an amount of Rs.44.51 lakh submitted alongwith the application for renewal of lease was neither remitted into Government account nor revalidated from time to time. This resulted in non realisation of lease amount of Rs.44.51 lakh into Government account.

After this was pointed out in December 2005, the department replied in December 2005 that as per present Government policy no quarry lease granted under Rule 8 A shall be renewed for poramboke[28] land. The reply was not tenable since, if Government policy was not to renew the lease they should have rejected the renewal application immediately and got the land vacated from the company. This was, however, not done. They have also not taken any action to dispose of the application within three months as per directions of the High Court and to revalidate the demand draft.

The matter was reported to the Government (February 2006); their reply is awaited (November 2006).

---

28 Poramboke land means Government lands.

B – FINANCE DEPARTMENT

5.3 Interest receipts

Introduction

5.3.1 Interest receipts is one of the major sources of non tax revenue of the Government of Tamil Nadu (hereinafter called Government). In pursuance of achievement of various objectives, Government sanctions loans, ways and means advances to various public sector undertakings, departmental commercial undertakings, local bodies and co-operative societies. The loans sanctioned by Government usually carry interest, which is mentioned in the sanction order. The principal and interest have to be paid as per the terms and conditions of the loan. In case of default in repayment, penal interest is charged.

Financial Code Volume I contains general instructions regarding sanctioning of loan, interest calculation, repayment procedure and action to be taken in case of default in payments. Further, Government order issued by the Finance (Loans and Advances) Department[29] provides measures for monitoring the disbursement and recovery of loans and advances sanctioned by Government and for ensuring uniformity in terms and conditions of the loans in Government orders sanctioning loans and advances.

Important points noticed during audit are given in the succeeding paragraphs:

Internal control mechanism

5.3.2 In Government order[30], Government issued directions that all heads of departments should maintain loan registers and demand collection balance (DCB) registers to watch recoveries of loan sanctioned by Government. The department should also raise demand in respect of the loan sanctioned and maintain the demand, collection and balance details. However, no loan register/DCB register was maintained in the Agriculture Department, Directorate of Sugar, Commissioner of Municipal Administration (CMA) and office of the Chief Electrical Inspector. Non maintenance of basic records rendered internal control and monitoring mechanism ineffective.

The matter was reported to the departments between January and April 2006 and the departments replied that the prescribed procedure would be followed in future.

---

29 Vide No.129 dated 21.3.2000.

30 G.O.No.129 Finance (L&A) Department dated 21.3.2000.

5.3.3 Delay in finalisation of terms and conditions of loans sanctioned

Industries and Agriculture Department

5.3.3.1 It was noticed from records of Director of Sugar that Government sanctioned loans of Rs.195.78 crore between October 1998 and August 1999 with interest rate varying between 14.5 *per cent* and 17 *per cent* to 10 co-operative sugar mills. In the sanction orders, Government also stated that the terms and conditions of repayment of loans would be fixed after the finalisation of rehabilitation scheme. However, it was noticed that even after seven years, Government had not proposed any scheme of rehabilitation though all the mills are still functioning. Due to delay in finalisation of terms and conditions of repayment of loans and interest by Government, interest from the time of sanction upto 31 March 2005 amounting to Rs.177.95 crore had not been levied; out of which Rs.150.07 crore pertains to last five years.

5.3.3.2 Scrutiny of records of Director of Industries and Commerce revealed that Government by an order dated April 2000, sanctioned a loan of Rs.32 lakh to M/s.Tamil Nadu Leather Corporation. The loan carried interest at the rate of 17 *per cent* and penal interest of Rs.2.75 *per cent* per annum. But the terms and conditions regarding mode of payment of interest were not prescribed. Though the department forwarded proposals for fixing terms and conditions to Government in July 2000, the same have not been finalised till date. Interest amounting to Rs.0.34 crore from May 2000 to March 2005 though leviable, has not been levied so far.

5.3.4 Non raising of demand for interest

Municipal Administration and Water Supply Department

Through various Government orders issued between February 2001 and April 2005, Government fixed interest rates to be demanded for the loans sanctioned to local bodies. Interest ranged between 10.5 *per cent* and 14.5 *per cent* per annum.

5.3.4.1 Test check of loan repayment statement and connected records revealed that Tamil Nadu Urban Infrastructure Financial Services Limited (TNUIFSL) has been repaying loans it had obtained for own use with interest on the due dates to Government. However, while repaying the loans to Government, it sets off the amount receivable from municipalities/local bodies and pays the balance amount. The total amount adjusted during the period from 2000 to 2004 aggregated to Rs.107.18 crore.

Government while approving such adjustment in April 2001 fixed the responsibility on the CMA to arrive at the amount that needs to be set off from the State Finance Commission grants to each such municipality/local body. However, no demand/adjustment has been made till date in respect of interest by CMA. Interest at the rates specified for the period from March 2000 to March 2005 works out to Rs.33.67 crore.

This was brought to the notice of CMA in April 2006 and reply is awaited (November 2006).

5.3.4.2 It was noticed from Government orders (GOs) issued between June 1999 and March 2004 and connected records of Tamil Nadu Water Supply and Drainage Board (TWAD) that M/s.Housing Urban Development Corporation Limited (HUDCO) provided finance to local bodies for the purpose of executing water supply and drainage schemes through TWAD. As local bodies failed to settle the dues to HUDCO, Government accorded sanction for release of sum of Rs.112.19 crore to TWAD between June 1999 and March 2005 for making repayment of dues to HUDCO. The interest leviable ranged between 12 and 14.5 *per cent*. CMA was requested to raise necessary demands against local bodies concerned under intimation to TWAD which was not done. Interest recoverable works out to Rs.35.85 crore for the period from July 1999 to March 2005 of which Rs.35.65 crore pertains to last five years.

This was brought to the notice of CMA in June 2006 and reply is awaited (November 2006).

Agriculture Department

5.3.4.3 Test check of sanction orders of loan in the office of Director of Agriculture in March 2006 revealed that, Agriculture Department sanctioned four loans aggregating Rs.12.45 crore to M/s.Tamil Nadu Agro Industry Development Corporation between March 2002 and March 2003. However, interest at rates varying between 19.25 and 19.75 *per cent* per annum amounting to Rs.7.17 crore, though leviable from March 2002 to March 2005, has not been levied so far.

Industries Department

5.3.4.4 Test check of records in Directorate of Industries and Commerce revealed that five loans of Rs.2.91 crore were sanctioned to M/s.Tamil Nadu Leather Corporation during 1999-2000 and 2000-01. The rate of interest was 12 *per cent*. However, interest amounting to Rs.1.85 crore for the period from date of disbursement till 31 March 2005 has not been demanded till date. Further, as the company was in the process of winding up, this amount needs to be worked out by the department to submit a claim to official liquidator to safeguard the interest of Government.

After this was pointed out, the department replied in February 2006 that action would be taken to raise the demand even though the company was in the process of liquidation.

5.3.4.5 Similarly, it was noticed that M/s.National Co-operative Development Corporation (NCDC) Limited sanctioned loans in 1992 and 1993 to two co-operative sugar mills. Since the loans were not repaid, M/s.NCDC adjusted between March 2002 and March 2004 a sum of Rs.6.74 crore from subsequent loans to these sugar mills through Government and from reimbursement of ways and means advance to Government for integrated

co-operative development projects. After adjustment, this amount should have been treated as loan from Government to these mills. However, out of Rs.6.74 crore, Government fixed the terms and conditions for repayment of Rs.2.66 crore only (March 2002) with rate of interest of 13 *per cent* per annum. For the balance Rs.4.08 crore, no such terms and conditions were prescribed.

Interest of Rs.1.12 crore on Rs.2.66 crore for which terms and conditions were fixed has not been levied. Further non fixing of rate of interest for balance Rs.4.08 crore resulted in non realisation of interest of Rs.0.84 crore for the period from March 2004 to March 2005. This resulted in overall non levy of interest of Rs.1.96 crore.

Energy Department

5.3.4.6 Test check of records of Chief Electrical Inspector revealed that eight loans of Rs.256.38 crore were sanctioned to Tamil Nadu Electricity Board for various schemes like Accelerated Power Development Programme and Pradhan Mantri Grama Yojana between the years 2001 and 2004. The interest rates varied between 10.5 *per cent* and 12.25 *per cent*. The department replied that out of Rs.46.38 crore receivable as interest, an amount of Rs.29.47 crore had been adjusted from the NABARD loan to TNEB during March 2005 and February 2006. However, the balance interest amount of Rs.16.91 crore has not been demanded till date.

5.3.5 Short levy of interest and penal interest

Co-operation Department

Scrutiny of the records of Deputy Registrar of Co-operative Societies, Coimbatore Circle, revealed that Government sanctioned eight loans to Coimbatore District Consumer Co-operative Wholesale Stores Limited between 1974 and 1997 and repayment of principal, interest and penal interest was pending since 1981. The rate of interest varied between 8.25 and 11.75 *per cent*. The department was raising the annual demand regularly and issuing confirmation letters to the institution regarding outstanding principal, interest and penal interest at the end of each financial year. However, demand of interest and penal interest was incorrectly raised as Rs.1.04 crore instead of Rs.1.29 crore due to arithmetical mistake. This resulted in short levy of interest and penal interest amounting to Rs.25.22 lakh.

After this was pointed out in April 2006, it was replied that the revised confirmation letter would be sent to the institution after making necessary corrections in the loan ledger.

After this was pointed out to the Government, the Finance Department replied in August 2006 that observations made by audit were taken note of and in future, while sanctioning loans and advances, a specific para would be included in the sanction order requesting the heads of department to furnish quarterly periodical reports of the loans outstanding to the administrative department concerned.

C– HOME DEPARTMENT

5.4 Review on Police Receipts

Highlights

- **Amount of Rs.336 crore being the share of Chennai Corporation for the cost of police employed in Chennai city for the years 2000-01 to 2004-05 could not be demanded due to non fixation of rate.**

[Paragraph 5.4.7]

- **Non realisation of police guard charges for deployment of police to Tihar Jail, Railway, TNEB, other departmental undertakings, etc., amounted to Rs.101.11 crore.**

[Paragraph 5.4.8]

- **Non realisation of police cost from Central Government for agency function and bandobust duty at Mandapam and Rameswaram coastal area amounted to Rs.6.38 crore.**

[Paragraph 5.4.9]

- **Non recovery of water charges from police personnel over and above the free permissible limit amounted to Rs.0.89 crore including Rs.0.58 crore for the last five years.**

[Paragraph 5.4.10]

Recommendations

Government may consider:

- specifying time limit at each and every level, to demand and collect revenue due to the department,
- proper maintenance of demand collection and balance (DCB) register at all levels to ensure collection of police receipts

Introduction

5.4.1 Receipts of Police Department, (hereinafter referred to as department) mainly comprise of recovery of cost of police personnel provided to Central Government, public undertakings, banks or other bodies. Incidence of recovery from other State Governments also arises for discharging agency function when so undertaken, for maintenance of law and order in unusual circumstances and at the time of elections etc. In addition to this, there are collection of water charges for quarters and rent receivable from shops let out

in police quarters. The system of assessment, collection and accounting of receipts are governed by police standing orders.

The cost of police personnel deployed is recoverable in advance once in six months from beneficiaries as per Government orders issued in September 1999.

Organisational set up

5.4.2 Subject to overall control and superintendence of the Home Department, Government of Tamil Nadu, the Director General of Police (DGP), Chennai is incharge of the Tamil Nadu police. He is assisted by the Additional Directors General (ADG), Inspectors General (IG), Deputy Inspectors General (DIG) incharge of ranges, Commissioners of Police (CP), Superintendents of Police (SP) and Deputy Superintendents of Police (DSP) at district level.

Audit Objectives

5.4.3 The main objectives of the review were to ascertain

- efficiency and effectiveness of the system and procedures relating to assessment and collection of receipts of the department,

- correctness of amount recoverable as police receipts particularly guard charges, actual receipts and analyse the reasons for difference if any.

Scope of audit

5.4.4 The records for the years 2000-01 to 2004-05 were test checked between December 2005 and March 2006 at the office of the DGP, Chennai and at district level offices. Records relating to 20[31] out of 59 units were selected on the basis of police personnel deployed and its impact on revenue.

Trend of revenue

5.4.5 Budget estimates and the amount actually collected during the last five years ended March 2005 are as under:

[31] DGP Chennai, COP (Chennai, Trichy, Madurai), IG Railway Police Chennai, SP Railway Police (Chennai, Trichy), DGP Uniformed Service Recruitment Board, Chennai, ADGP (Home Guards) Chennai, JC(Traffic) Chennai, JC (North Zone) Chennai, SP (Trichy, Madurai-Rural, Pudukottai), TSPB-I Trichy, III-Veerapuram, V-Avadi, RC Avadi, VI-Madurai, VII-Palani.

(Rupees in crore)

Year	Budget estimates	Actuals	Variations	Percentage of variation
2000-01	44.78	29.90	(-) 14.88	(-) 33.23
2001-02	41.57	46.71	5.14	12.36
2002-03	55.57	57.75	2.18	3.92
2003-04	82.18	40.24	(-) 41.94	(-) 51.03
2004-05	64.53	40.87	(-) 23.66	(-) 36.67

As per guidelines of budget manual, whenever budget is prepared, the aim is to achieve as close an approximation to the actuals as possible. It is, therefore, essential that not merely should all items of revenue and receipts that can be foreseen be provided but also only so much and no more should be provided as is expected to be realised, including past arrears, in the budget year.

From the above table it is seen that the variation between budget estimates and actuals ranged between (-) 51.03 *per cent* and (+) 12.36 *per cent* during the last five years which shows that the budget estimates were not prepared on a realistic basis.

The reason for high budget estimates for the years 2002-03 and 2003-04 was attributed to anticipated receipt of arrears of earlier years from the National Capital Territory (NCT) of Delhi and Tamil Nadu Electricity Board (TNEB).

Reason for increase in actuals during 2002-03 was due to heavy increase in spot fines and receipt towards application money for Tamil Nadu Uniformed Services Recruitment Board.

Internal control

5.4.6 Collection of revenue on account of deployment of police, residential telephone excess call charges and recovery of excess water charges and electricity charges from the occupants of police quarters should be watched in DGP Office by maintaining a DCB register.

However, when pendency position in regard to the above items was called for in January 2006, it was replied by the department that details would be available in the unit offices only. The pendency position as on 31 March 2005 in respect of the above items is yet to be furnished to audit.

DCB register to watch the progress in collection of guard charges on the deployment of police personnel to Government of India (GOI), other State Governments and TNEB, was not maintained properly in DGP Office, Chennai. A test check of unit offices revealed that DCB register was not at all maintained in TSPB VI Madurai and TSPB VII Palani.

Thus it is seen that there was no effective monitoring system, with the result, that the department was not able to watch the actual dues.

After this was pointed out, the department stated DCB register would be maintained in future.

Cost of police force due from Chennai Corporation

5.4.7 As per Section 3 of the Tamil Nadu Municipal Police Act, 1878 (Tamil Nadu Act VII of 1878), the Municipal Commissioner for the city of Chennai shall annually set apart, and pay to Government in equal monthly instalments, out of the funds raised under the Chennai City Municipal Corporation Act 1919 or any other corresponding law for the time being in force such sum not exceeding 50 *per cent* of the total cost of police force, other than the Marine Police, employed by Government in the said city, as may be annually fixed by Government.

Audit check revealed that Government has not fixed any rate over the years for levying cost of police personnel employed in Chennai city. As per Finance Accounts, total expenditure incurred on State headquarters police for the years 2000-01 to 2004-05 amounted to Rs.672 crore. Hence Government could have collected a maximum amount of Rs.336 crore from Chennai Corporation on account of police employed in the city as detailed below:

(Rupees in crore)

Year	Expenditure incurred on State Headquarters as per Finance Accounts	50 *per cent* share (Maximum)
2000-01	119.84	59.92
2001-02	119.19	59.60
2002-03	132.98	66.49
2003-04	144.99	72.49
2004-05	154.72	77.36
Total	**671.72**	**335.86**

After this was pointed out in March 2006, the department stated in June 2006 that they were not aware of the provisions of the Act and the matter would be taken up with the Corporation of Chennai and Government.

Non realisation of police guard charges

5.4.8 As per police standing order[32], when police personnel are deployed in addition to the sanctioned strength, whole charges for such deployment shall be charged and credited to Government.

Prior to September 1999, there was no specific system prevailing for collection of guard charges. Demands were raised against the institutions which requested police personnel and payments were made by the parties concerned. However, Government issued orders in September 1999 for recovery of guard charges in advance once in six months from beneficiaries.

[32] No.380(2)(d)

5.4.8.1 *Deployment of Tamil Nadu Special Police Battalions at Tihar Jail, New Delhi*

As per Government orders issued from time to time[33], DGP was required to watch recoveries towards cost of police personnel deployed to Tihar Jail, New Delhi and get them reimbursed periodically.

Three Tamil Nadu special police battalions (TSPB) were deployed for security duty at Tihar Jail since 1980. Guard charges for the period from 1 October 1992 to 30 November 1993 were due from GOI and for the period from 1 December 1993 to 31 March 2000 from NCT, Delhi and from 1 April 2000 to 31 March 2005 from Delhi Prison Department. The total demand for the period from 1 October 1992 to 31 March 2005 was Rs.138.90 crore. Against this demand, Rs.70.45 crore was collected from NCT, Delhi between April 2001 and July 2005, being part payment for the period from April 2000 to March 2005 on provisional basis, subject to final settlement on production of audit certificates. However, since the department had not produced necessary information/ details, the amount of Rs.68.45 crore remained unrealised as detailed below:

- ***Period from 1 October 1992 to 17 August 1994***

Audit certificates for Rs.9.79 crore were obtained in July 2001 and sent to GOI. The amount represented guard charges due from GOI for the period from 1 October 1992 to 30 November 1993 and from NCT for the period from 1 December 1993 to 17 August 1994. As the records depicting bifurcation between the two periods were lost due to leakage of rain water, guard charges due from GOI and NCT remain unrealised.

- ***Period from 18 August 1994 to 30 April 1999***

The concurrence of GOI to allow deputation of staff in excess of the scale prescribed for the standard battalion for ex state duty was not obtained by the department. Hence audit certificate for Rs.45.63 crore for the period mentioned could not be obtained.

- ***Period from 1 May 1999 to 31 March 2005***

The department had not forwarded proposals for obtaining audit certificate for the period mentioned. The claim amounted to Rs.13.03 crore.

Since the department had not produced the requisite details for issue of audit certificates, the claim for Rs.68.45 crore including Rs.1.59 crore pertaining to last five years was pending collection.

After this was pointed out, the department stated that audit certificate would be obtained (March 2006).

---

33 G.O.Ms.No. 743 Home Department Dated 01.07.94.
G.O.Ms.No. 1506 Home Department Dated 03.11.98.
G.O.Ms.No. 1672 Home Department Dated 10.08.99.

5.4.8.2 From Railways

As per Railway Board's letter of February 1993, cost on establishment of Railway Police, was to be claimed from Railways at 50 *per cent* of total cost as certified by Accountant General (Civil Audit) Chennai.

- It was seen in January 2006 that claim for the year 2004-05 was worked out as Rs.7.34 crore (50 *per cent* of Rs.14.67 crore) by the department. However, proposal for obtaining audit certificate was not sent.

- While making part payment (between January 2002 and April 2005) for the years 1998-99 and 2002-03, a sum of Rs.6.03 crore was deducted from the bills of Police Department by Railways towards maintenance charges due from other departments like highways, local bodies and TWAD[34] Board etc.

After this was brought to notice in January 2006, the department stated in February 2006 that Railway authorities would be approached for release of the deducted amount.

5.4.8.3 From Tamil Nadu Electricity Board (TNEB)

As per directions of DGP issued in August 1999, guard charges payable by TNEB were being paid directly to DGP, Chennai and not as per the then prevailing system of sending demand drafts to the concerned SP.

Test check of records of DGP office revealed that DCB register was updated upto 31 December 2003 only and was not maintained properly thereafter. However, the DGP in July 2005 raised a demand for Rs.20.34 crore as dues upto 31 March 2005. When correctness of the demand was cross checked with information obtained from 14 SP offices, it was seen that outstanding dues as on 31 March 2005 amounted to Rs.30 crore. Thus there was difference between figures of DGP and field offices which needs to be reconciled, correct dues worked out and demand raised accordingly. Incorrect preparation of DCB resulted in short demand of Rs.9.66 crore.

After this was pointed out, the department replied that latest outstanding figures received from the districts and commented in the audit slip would be taken as reference and correct demand prepared for the quarter ending 31 March 2006.

5.4.8.4 From Airport, Madurai

It was seen in the office of the DGP, Chennai, that 38 armed guards were sanctioned by Government for Airport, Madurai through three Government orders.

---

34 Tamil Nadu Water Supply and Drainage.

Test check of records in the office of the DGP revealed that the department had not obtained sanction from the Bureau of Civil Aviation Security, New Delhi in respect of 26 personnel out of 38 guards. When the department preferred claim in March 2004 for deployment of 38 police personnel for the period from 01 October 1990 to 07 April 2002, Airport Authority did not admit the claim in respect of 26 personnel because there was no proper sanction and directed the department to obtain ex post facto sanction. The department did not take any action to obtain the same.

Thus, deployment of 26 police personnel by the department without prior concurrence from the airport authorities resulted in non realisation of Rs.2.67 crore.

5.4.8.5 *From Chennai Port Trust*

Government sanctioned (March 1990) a new police station named as M2 Port (Water borne) police station within the premises of Chennai port to patrol the water front area of the port and prevent theft on board of vessels. As per agreement between Government and the Port Trust, the entire expenditure of new police station was to be borne by Chennai Port Trust.

It was, however, seen that the Commissioner of Police, Greater Chennai had not claimed from the Chennai Port Trust authorities reimbursement of actual expenditure of 48 police personnel deployed for the years from 2001-02 to 2004-05, resulting in non realisation of Rs.1.49 crore.

After this was pointed out in February 2005/March 2006, the department replied (March 2006) that the claim has been preferred. Further report is awaited (November 2006).

5.4.8.6 *From Temples*

Government constituted Temple Protection Force in June 1992 with the condition that 10 *per cent* of the expenditure should be collected from the temples. By an order issued in September 2001, Government waived all the contributions due from the temples upto the end of the previous year ie., 31 March 2001.

Test check of records of office of the DGP revealed that the department waived the dues for the period from 1 April 2001 to 22 September 2001 which was incorrect. This resulted in non collection of Rs.1.01 crore.

After this was pointed out the department accepted the audit observation in February 2006 and agreed to collect the contribution.

5.4.8.7 *From other Central Government departments/undertakings/ companies and other State Government departments*

Government issued orders in September 1999 for collection of guard charges in advance once in six months from the beneficiaries.

Test check of records of the offices of DGP, Chennai, CP, Greater Chennai and SP of Pudukkottai and Cuddalore districts revealed that arrears of police cost were recoverable to the extent of Rs.4.46 crore from Central Government departments, undertakings, companies and other State Governments as detailed below:

(Rupees in crore)

Sl. No.	Organisation	Period involved	Amount
Government of India			
1	Archaeological Survey of India, GOI	04/96 to 03/05	0.60
2	Central Bureau of Investigation, Chennai	04/01 to 03/05	0.34
3	Collector, Customs, Chennai	10/03 to 03/05	0.11
4	CBI/Economic Offence Wing, Chennai	10/00 to 04/03	0.10
5	Director, Postal Stamps, Chennai	07/03 to 03/05	0.10
6	CBI, Sastri Bhavan, Chennai	04/04 to 03/05	0.09
7	Doordharsan Kendra, Chennai	10/03 to 09/04	0.06
8	Special Bureau of Registrations, Chennai	07/03 to 12/04	0.01
9	Subsidiary Intelligent Bureau, Chennai	01/05 to 03/05	0.01
Corporations			
10	Bharat Sanchar Nigam Limited – for 9 Units in Chennai	2/98 to 03/05	1.59
11	Neyveli Lignite Corporation – Neyveli	09/01 to 02/05	1.29
12	Videsh Sanchar Nigam, Chennai	10/03 to 09/04	0.07
13	Oil & Natural Gas Commission, Chennai	03/01 to 03/02	0.02
Other States			
14	Director of Archaeology, Kerala State (Provision of guards to Padmanabhapuram Palace)	01/96 to 01/04	0.07
	Total		**4.46**

After this was pointed out, the department stated that frequent reminders and letters were being sent to the concerned officers for settlement and the same would be collected. The reply of the department did not specify whether issue regarding non payment of police cost was taken up at higher level at any time.

Non realisation of police cost from the Central Government for agency function

5.4.9 Government discharges agency function on behalf of GOI, by deploying additional police force for registration and surveillance of

foreigners, repatriates from Sri Lanka and tightening up of immigration proceedings. For this work, cost of police deployment is to be recovered from GOI.

5.4.9.1 It was noticed that a claim for Rs.2.40 crore towards expenditure for the years from 1996-97 to 2000-01 was forwarded by department to Government between August 2003 and November 2004. However, Government forwarded claim of Rs.38.40 lakh for the year 1996-97 to GOI only in June 2005 and for the remaining period the claim was yet to be preferred (April 2006). Further for want of details, audit certificate for an expenditure of Rs.41.65 lakh incurred during 2003-04 was not obtained. The proposals for audit certificate for the years 2001-02, 2002-03 and 2004-05 for an amount of Rs.1.29 crore were sent only in April/May 2006. The above delay resulted in non realisation of revenue of Rs.4.11 crore for nine years.

5.4.9.2 Guard charges of Rs.2.27 crore for the provision of armed police to Mandapam coastal wing and Rameswaram coastal wing, for the period from April 1998 to March 2005 were pending collection from the Ministry of Home Affairs, GOI. After this was pointed out, the department stated that Government claimed a sum of Rs.86.85 lakh for the period from April 1998 to September 2000 and October 2001 to March 2002 in October 2003.

In respect of the period from October 2000 to September 2001 claim for Rs.36.18 lakh was forwarded to Government by DGP in September 2005. In respect of expenditure of Rs.49.25 lakh incurred for the period from April 2002 to September 2002 and April 2004 to March 2005, proposals for obtaining audit certificates were sent belatedly in January 2004 and November 2005 respectively. In respect of the remaining period from October 2002 to March 2004, cost statements for Rs.54.44 lakh were forwarded to the DGP office only in February 2003, March 2003 and December 2003 by the field officers. This resulted in overall non raising of demand of Rs.2.27 crore of which Rs.1.40 crore pertains to last five years.

Non recovery of water charges from police personnel

5.4.10 As per Tamil Nadu Financial Code Volume II, free supply of water to police lines in Madras city is given subject to a limit of 60 gallons per hut per day where there are no flush out laterines and 70 gallons per hut per day where there are flush out laterines. The cost of any excess consumption of water over the free allowance for any one set of lines in a locality should be recovered from the occupants in proportion to their pay.

It was noticed that in two battalions (TSPB V & TSPB (RC)), water charges were incurred to the extent of Rs.67.88 lakh and Rs.67.34 lakh for the period from January 1998 to March 2005 and from 1990-91 to 2004-05 respectively. The eligible amount in respect of admissible limits of consumption for the two battalions worked out to Rs.39.21 lakh and Rs.6.84 lakh only for the above periods. Thus, overall water charges due for collection amounted to Rs.89.17 lakh, including Rs.58 lakh for the last five years.

After this was pointed out in February/April 2006, the department stated (March 2006) that action was being initiated to collect water charges in respect of TSPB V. No reply had been received in respect of TSPB-RC, Avadi (November 2006).

Acknowledgement

5.4.11 The review was discussed with Government/department in the Audit Review Committee Meeting held in July 2006. The views of Government/department were taken into consideration while drafting the review.

Conclusion

5.4.12 Thus due to improper maintenance of records relating to deployment of police personnel, the dues could not be arrived at and demanded promptly. Further as DCB register was not maintained properly, the amounts which are due from other departments could not be watched correctly.

D - MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT

5.5 Non issue of licences to public buildings resulting in non realisation of licence fees

The Tamil Nadu Public Buildings (Licensing) Act, 1965 provides for inspection and licensing of buildings frequented by the public. Public building means any building used as a school, college, university, hostel, library, hospital, club, lodging/boarding house, marriage hall, community hall, etc. According to Section 3 of the Act, all public buildings shall be used only under a valid licence obtained from the competent authority on payment of prescribed fees. At taluk level, the tahsildar is the competent authority to issue licences. The licence thus granted shall be valid for a period of three years. The rate of fee varies from Rs.10 to Rs.5,000 depending on the nature and value of the building. The owner who intends to use any building as a public building shall apply for licence in prescribed form.

It was noticed in five[35] taluks during February and March 2006 that owners of 121 public buildings did not apply for licence during the period from July 2003 to June 2005 and hence licences were not granted. This resulted in non realisation of licence fee amounting to Rs.5.76 lakh.

After this was pointed out in February/March 2006, the department stated that action would be taken to issue licences.

The matter was reported to Government (April 2006); their reply is awaited (November 2006).

[35] Alangulam, Ambasamudram, Nanguneri, Ottapidaram and Tenkasi.

E - ENVIRONMENT AND FOREST DEPARTMENT

5.6 Non realisation of lease rent

Government of Tamil Nadu in its order issued in April 1991 revised the rates of lease rent from 10 *per cent* to 12.5 *per cent* of the market value of the land. In the same order, Government directed that the market value would be refixed at the end of every three year period.

Test check of records of two forest divisions in May 2005 and February 2006 revealed that Rs.2.37 crore being lease rent along with interest was not recovered from the lessees as detailed below:

District Forest Office, Coimbatore

5.6.1 According to the terms and conditions of the lease agreement executed between the District Forest Office, Coimbatore and M/s.Associated Cement Company Limited, Madukkarai in December 1998, the lessee was required to pay interest at the rate of 12 *per cent* per annum on all arrears of rent from the date they were due.

Lease rent was collected upto December 1991 for 161 acres of forest land leased to the above lessee. The lease rent was revised in 1998 with retrospective effect from 1992 and an additional demand of Rs.22.80 lakh was raised by the division in April 1999. The lessee paid the above dues only in August 2004. Interest of Rs.23.33 lakh was payable by the lessee for the default period for which demand was not raised. This resulted in non realisation of Government revenue of Rs.23.33 lakh.

The division did not revise the lease rent after three years i.e., from 2000. It also did not raise any demand for lease rent for the period from 2000 to 2006. Consequently, lease rent was not paid by the lessee. The lease rent payable for the period 2000-06 amounts to Rs.86.96 lakh based on the market value obtained from the Sub Registrar, Madukkarai out of which Rs.66.55 lakh pertain to last five years. Further interest due on lease rent due from 2000 to 2006 worked out to Rs.32.86 lakh.

District Forest Office, Tirunelveli

5.6.2 The terms and conditions of the lease agreement between the District Forest Office, Tirunelveli and M/s.India Cements (P) Limited, Thalayuthu stipulated payment of interest by the lessee at the rate of six *per cent* on all arrears of rent from the date they were due.

Forest land of 538.20 acres was leased to M/s.India Cements (P) Limited, Thalayathu for extraction of lime stone and the lessee surrendered 299.13 acres of leased area in November 1990 and retained 239.07 acres. The division neither worked out nor did it raise any demand for lease rent from the lessee for the period 1998 to 2006. The lease rent payable by the lessee based

on information on market value obtained from Inspector General of Registration, Tirunelveli worked out to Rs.64.91 lakh, out of which Rs.24.61 lakh pertains to last five years. The interest payable for the default period worked out to Rs.29.05 lakh.

Inaction on the part of the department to promptly raise the demand resulted in non realisation of Government revenue of Rs.1.52 crore as lease rent and Rs.85.24 lakh as interest.

The matter was referred to the department and Government in May 2006; reply had not been received (November 2006).

Chennai,
The 12 MAR 2007

(S.MURUGIAH)
Accountant General
(Commercial and Receipt Audit)
Tamil Nadu

Countersigned

New Delhi,
The 21 MAR 2007

(VIJAYENDRA N.KAUL)
Comptroller and Auditor General
of India

©
COMPTROLLER AND AUDITOR GENERAL OF INDIA
2007

N.T.P. SUPPLIED BY THE DEPARTMENT
PRINTED BY THE GOVT. CENTRAL PRESS, CHENNAI 600 079.